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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6363 OF 2023

NAMDEO BHANUDAS DHADAGE AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

Advocate for the Petitioner : Mr. DESHMUKH VIJAY VASANTRAO

AGP for Respondent Nos.1 to 5: Mr. S.B. JADHAV.

Advocate for respondent No.6 : Mr. M.S. KARAD h/f. S.S. THOMBRE.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 1st JULY, 2024.

ORDER :-

The petitioners impugn the order dated 12.6.2023 passed by In-charge Sub Divisional Officer, Vaijapur, on application of respondent No.6 thereby vacating ad-interim order dated 8.5.2023 granting stay to the order dated 9.3.2023 passed by respondent no.3 Tahsildar.

2. Mr. Vijay Deshmukh, learned advocate for petitioners submits that respondent No.6 filed a proceeding under Section 5 of the Mamlatdar courts Act for grant of customary way. The learned Tahsildar allowed the application and granted way as prayed. The said order of Tahsildar was subjected to challenge in Revision before the Sub Divisional Officer, Vaijapur, alongwith application seeking stay to the execution and operation of the order passed by the Tahsildar. The Sub

Divisional Officer, after hearing parties granted ad-interim stay to the order of the Tahsildar and posted the matter for further hearing. However, by subsequent date of hearing regular SDO was promoted and Tahsildar had taken over charge of his post as In-charge SDO. After taking over as In-charge SDO, the learned Tahsildar, who has passed order under Section 5 of the Mamlatdar Courts Act, himself preponed the proceeding in the capacity of In-charge SDO and vacated the ad-interim stay granted by the regular SDO and passed consequential order dated 12.6.2023.

3. Mr. Vijay Deshmukh would submit that this is a classic example of gross violation of principles of natural justice. The authority who has passed order in original proceeding has assumed revisional jurisdiction while officiating as In-charge SDO

4. Mr. Karad, learned advocate for respondent No.6 submits that the proceeding in revision is still pending before the SDO. Now, regular officer has taken over charge of the office of SDO. The Revision application itself can be heard and decided on merit.

5. Considering the submissions advanced, it would be in the fitness of things if the respondent No.2 is directed to decide the pending revision application within stipulated period and till such decision, the order passed by the respondent No.3 is kept in abeyance.

6. In that view of the matter, following order is passed :-

: O R D E R :

- [a] The writ petition is partly allowed.
- [b] The impugned order dated 12.6.2023 passed by the In-charge SDO (respondent No.3) on application of respondent No.6 thereby vacating interim order dated 8.5.2023 is hereby quashed and set aside
- [c] The respondent No.3 shall decide the pending revision application within a period of 8 weeks after hearing all concerned.
- [d] Till disposal of the revision application, the order dated 12.6.2023 passed by respondent No.3 shall be kept in abeyance.
- [e] Writ petition stands disposed of.

**[S.G. CHAPALGAONKAR]
JUDGE**

grt/-