

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 16011 OF 2025

Ramdas Aappa Khaire

... **Petitioner**

Versus

Hasan Papabai Pansare & Ors.

... **Respondents**

Adv. Rakesh Sharad Patil for Petitioner.

Adv. Bapusaheb Dahiphale, AGP for Respondent-State.

Adv. Atharva S. Jagtap for Respondents.

CORAM : ARUN R. PEDNEKER, J.

DATE : 9 JUNE, 2026

P.C. :

1. Heard. Learned counsel for the Petitioner and Respondents.

2. In the present Petition, the Petitioner challenges the order dated 26 September, 2025, passed by the learned Sub Divisional Officer, Purandar Division Purandar, District Pune in RTS Revision No. 145 of 2024. By the said order, the Revision Application filed by the Respondents was allowed, and the order passed by the Mamlatdar under Section 5(2) of Mamlatdars Courts Act, 1906 was set aside.

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3. Learned counsel for the Petitioner submits that the order passed by the Mamlatdars under Section 5(2) of the Mamlatdars Courts Act, 1906 can be challenged only by the way of a Revision under Section 23 of the Mamlatdars Courts Act, 1906 and that there is no appellate provision available under Section 247 of the Maharashtra Land Revenue Code to challenge such an order. He further submits that the impugned order indicates that it has been passed in exercise of powers under Section 247 of the Maharashtra Land Revenue Code and not under Section 23 of the Mamlatdars Courts Act.

4. The Learned counsel appearing for the Respondents placed reliance on the judgment of the Supreme Court in the case of *N. Mani Vs. Sangeetha Theatre and Ors.*¹ particularly Para No. 9 thereof, and submits that if an authority has a power under the law merely because while exercising that power the source of power is not specifically referred to or reference is made to a wrong provision of law, that by itself does not vitiate the exercise of power so long as the power does exist and can be traced to a source available in law. In the abovementioned case, the judgment relied upon by the Respondents is related to Rule 14 (2) of the Tamil Nadu Cinemas (Regulations) Rules, 1957. In that case, the Apex Court observed that the authority concerned possessed the requisite power under the Tamil Nadu Cinemas Regulation Act, 1955 to the said authority.

5. Under the Mamlatdars Courts Act, the SDO under Section 23 exercises Revisional powers against the orders passed by the Mamlatdar under Section 5(2). The Mamlatdars Courts Act is a self-contained code

¹ (MANU/SC/1326/2004)

relating to the judicial functions to be exercised by the authorities deemed to be a 'Court'. The object and purpose as well as the field of operation of both the enactment that is the Mamlatdars Courts Act, and Maharashtra Land Revenue Code, 1966 are different. The authorities exercising power under the land revenue code has no power to interfere with the order of the Mamlatdar under Section 5 of Mamlatdars Courts Act. Merely because the same officer holds the power and under Section 23 of the Mamlatdars Courts Act, 1906 and Section 247 of Land Revenue Code would be of no consequence. The procedure and exercise of power under Section 23 of the Mamlatdars Courts Act and under Section 247 of the Land Revenue Code are entirely different.

6. As such the impugned order under Maharashtra Land Revenue Code is without jurisdiction and is set aside. However, the liberty is reserved to the Respondent to challenge the impugned order before the Revisional Authority under Section 23. If such revision is filed within a period of 30 days before the concerned authority, the Revisional Authority shall condone the delay in filing the revision. In view of the long delay, if such revision is filed, the authority constituted to decide it as expeditiously as possible. This Petition is accordingly disposed of.

[ARUN R. PEDNEKER, J.]

Note : This order is corrected by speaking to the minutes of Order dated 15 June, 2026