

VRJ

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5672 OF 2025

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Kapil Satish Phalke & Anr.

... Petitioners

V/s.

The Sub Divisional Officer, Koregaon
Sub Division, Koregaon, District Satara
& Ors.

... Respondents

Mr. Dilip Bodake for the petitioners.

Ms. M. S. Srivastava, AGP for the State.

Mr. Shreyas P. Barsawade for the respondents.

CORAM : AMIT BORKAR, J.

DATED : MAY 5, 2025

P.C.:

1. The present writ petition is directed against the order dated 13 March 2025 passed by the Sub-Divisional Officer, Koregaon, in exercise of his revisional jurisdiction under Section 23(2) of the Mamlatdar's Courts Act, 1906. The order arises from proceedings initiated before the Mamlatdar for removal of obstruction under the provisions of the said Act.

2. Upon careful perusal of the record, it appears that the Mamlatdar had declined to grant relief to the applicant primarily on the ground that the panchnama, a material piece of documentary evidence, was not properly drawn. The Mamlatdar

recorded a finding that the panchnama did not meet the procedural requirements, and on that basis, relief was refused.

3. The Sub-Divisional Officer, while entertaining the revision application, also concurred with the view that the panchnama was defective. However, instead of evaluating the legal effect and evidentiary value of the said panchnama in the context of the case, and proceeding to adjudicate the revision on its own merits, the revisional authority remitted the matter back to the Mamlatdar, thereby deferring the adjudication.

4. In my considered view, this approach adopted by the Sub-Divisional Officer is legally unsustainable. The principle is well-settled that an order of remand is not to be passed as a matter of routine, and certainly not merely to fill up lacunae in evidence or to re-do what has already been considered. A remand may be warranted only if the original authority has failed to consider a material document, the appreciation of which requires either a re-evaluation of evidence or permitting parties to lead fresh evidence. That is not the case here.

5. The revisional authority, having recorded a finding on the defectiveness of the panchnama, was under a legal duty to test the merits of the Mamlatdar's order in the light of the other evidence on record, and determine whether the decision suffers from perversity or legal infirmity. Once the panchnama was found to be of doubtful evidentiary worth, the correct course would have been to proceed with adjudication on available legal grounds, and not to relegate the parties to a fresh round of proceedings without

justification.

6. The power of remand, when exercised in absence of compelling legal necessity, leads to avoidable delay in the resolution of disputes. Courts and quasi-judicial authorities are expected to avoid multiplicity of proceedings and ensure effective adjudication in the interest of justice. Remand should not be directed where the record is sufficient for final disposal and no prejudice is caused.

7. Applying these principles to the facts at hand, I am of the view that the Sub-Divisional Officer erred in law in passing an order of remand. The error goes to the root of the jurisdiction and merits interference under Article 227 of the Constitution of India.

ORDER

- i. The impugned order dated 13 March 2025, passed by the Sub-Divisional Officer, Koregaon, is hereby quashed and set aside.
- ii. Revision Application No. 6 of 2023 is restored on the file of the Sub-Divisional Officer, Koregaon.
- iii. The Sub-Divisional Officer shall decide the revision application on its own merits, having due regard to the material produced before the Mamlatdar and the findings recorded therein.
- iv. The parties shall remain present before the Sub-Divisional Officer, Koregaon on 13 May 2025 without further notice.
- v. The Sub-Divisional Officer shall endeavour to dispose of

the revision application within a period of six weeks from the date of appearance of the parties, in accordance with law.

vi. All contentions of the parties are expressly kept open.

8. The writ petition stands disposed of in above terms. No costs.

9. Pending interlocutory application(s), if any, stand disposed of.

(AMIT BORKAR, J.)