

(1925) 06 BOM CK 0014
In the Bombay High Court

Ganpati Kondaji Sandbhar

APPELLANT

Vs

Maruti Gangaji Sandbhar

RESPONDENT

Date of Decision : 26-06-1925

Acts Referred:

Mamlatdars Court Act, 1906 — Section 23

Citation : AIR 1925 Bom 522

Hon'ble Judges : Macleod, C.J

Bench : Division Bench

Judgement

Macleod, C.J.—The applicant is the lessee of certain property which was leased to him for ten years on July 30, 1921, by the owner, Kashibai, one of the terms of the lease being that the tenancy was to be forfeited if the tenant failed to pay the rent provided for in the lease. The opponent purchased the land in dispute from Kashibai on June 30, 1924, and got the lease in suit transferred to himself on August 20, 1923. As the applicant had not paid rent, the opponent filed a suit on June 19, 1924, in the Mamlatdars' Court to recover possession. The Mamlatdar decided the suit in favour of the plaintiff and directed that the plaintiff should be put in possession of the land. An application to the Collector to revise this order was rejected without hearing the applicant. He has now come to this Court asking us to interfere on the ground that the Collector ought not to have rejected the application without hearing the applicant or his pleader. We are not concerned in this application with the merits of the case. We are concerned with the important question of principle, namely, whether a person dissatisfied with the decision of the Mamlatdar under the Mamlatdars' Courts Act, is entitled to be heard when he applies to the Collector u/s 23 of the Act to revise the order of the Mamlatdar. u/s 23 (1) there shall be no appeal from any order passed by a Mamlatdar under the Act. Under Sub-Section (2) the Collector may call for and examine the record of any suit under the Act, and if he considers that any proceedings, finding or order in such suit is illegal or improper, may, after due notice to the parties, pass such order thereon, not inconsistent with the Act, as he thinks fit. Under Sub-Section (3) where the Collector takes any proceedings

under the Act he shall be deemed to be a Court under the Act.

2. The Collector, therefore, must follow the ordinary rule of procedure followed by a Court, and it is one of those commendable rules of procedure which ought to be followed, that if any party is entitled to make an application to a Court, he is entitled to be heard either in person or through his pleader, before his application is rejected.

3. We think, then, that the Collector was wrong in rejecting the present application. We set aside his order declining to revise the order passed by the Mamlatdar, and we direct him to hear the applicant on the question whether the application should be entertained. Rule absolute. No order as to costs.