

(1907) 07 BOM CK 0009

In the Bombay High Court

Case No : Criminal Application for Revision No. 102 of 1907

Narayan Dhondiba

APPELLANT

Vs

Tukaram Govindshet

RESPONDENT

Date of Decision : 11-07-1907

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 195(7)(3)
Mamlatdars Court Act, 1906 — Section 23(3)

Citation : (1907) 9 BOMLR 896

Hon'ble Judges : Heaton, J;Chandavarkar, J

Bench : Division Bench

Judgement

Chandavarkar, J.—The first question is whether an appeal from the Mamlatdar's orders refusing sanction lay to the District Court. Mr. Rao has argued that the appeal lay to the Collector as the principal Court of original jurisdiction to whom the Mamlatdar is subordinate under the present Mamlatdars Act, because under that Act the Mamlatdar's Court is a Revenue Court. The Act does not define the Mamlatdar's Court as a Revenue Court Before it came into force a Mamlatdar's Court for the purposes-of the Mamlatdars' Act, Bombay Act III of 1876, had been treated by the decisions of this Court as a Civil Court. That had been the law before the present Act came into operation. The Legislature must be taken to have been aware that such was the law; and if the Legislature had intended to abrogate that law, it would have expressed its intentions in clear words. No such intention has been expressed in the Act and we cannot imply it without something in the provisions to warrant the implication. Mr. Rao relies on Section 23, Clause 3, of the Mamlatdars' Act, which empowers the Collector to revise the proceedings of any suit instituted before the Mamlatdar under the Act. But that is a special power conferred upon the Collector and constitutes him a Court only for the limited purpose specified in the clause. Under these circumstances the Collector having merely the revisional power granted to him for a particular purpose and restricted to that purpose we cannot hold that the Collector became on that account the principal Court of original jurisdiction within the meaning of

the expression as used in Sub-clause (3) of Clause 7 of Section 195 of the Code of Criminal Procedure. We think we ought to follow the ruling of this Court in *In Re Gurunath Narsinha* : *In Re Ramchandra* (1903) 5 Bom L.R. 206 On the merits it is clearly a question of discretion and unless we are satisfied that the discretion has been used wrongly by the District Judge we should not interfere. We must, therefore, discharge the rule.