

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.3734 OF 2007 IN
SECOND APPEAL STAMP NO.25645 OF 2006

MAHEMOD KHAN MANSOOR KHAN

APPLICANT

VERSUS

MOHD.HAFIZUDDIN MOHD.QUAMORDDIN
AND OTHERS

RESPONDENTS

Mr.P.P.More, AGP for the State.

(CORAM : RAVINDRA V. GHUGE, J.)
DATE : 08/05/2015

PER COURT :

1. Pursuant to the orders passed by this Court (Coram : D.G. Karnik, J.) dated 01/08/2008, 16/09/2008 and 18/09/2008, this court had passed the following two orders on 01/04/2015 and 29/04/2015 respectively, which read as :-

01/04/2015 :-

"1. This Court (Coram:- D.G. Karnik, J.) by order dated 01-08-2008 had issued notice to the applicant-Mahemodkhan S/o Mansoor Khan to show cause why action should not be taken for filing a false affidavit. The notice was made returnable after six weeks.

2. By order dated 16-09-2008, this Court noted the report of the bailiff dated 15-09-2008 that the applicant-

Mahemodkhan S/o Mansoor Khan could not be served as he had left the address and gone elsewhere. His new address was not known. As such, this Court issued aailable warrant (bail amount of Rs. 1,000/-) against the said applicant returnable on 14-10-2008. The statement of Shri Amol Gandhi, learned Advocate was recorded that if the applicant appears in the case suo-moto on 18-09-2008, theailable warrant need not be issued.

3. The original proceedings RCS No. 725 of 1996 were initialed by Mahemodkhan S/o Mansoor Khan with regard to Municipal house No. 9-6-781/1, Plot No. 1 in Survey No. 15 at Brahmpuri, Rahamat Nagar, Nanded.

4. In the light of the above, a non-bailable warrant be issued against the applicant-Mahemodkhan S/o Mansoor Khan so as to compel his appearance before this Court.

5. In this backdrop, the District Superintendent of Police, Nanded is directed to cause an enquiry as to whether the above mentioned Municipal house is owned by the applicant -Mahemodkhan S/o Mansoor Khan. In the event he is the owner of the said house or any property, the said property or house be attached.

6. The District Superintendent of Police, Nanded shall also trace out any other properties of the applicant-Mahemodkhan S/o Mansoor Khan and in the event same are noticed, they

be attached. This order is being passed looking to the fact that despite issuance of bailable warrant the applicant is said to be not traceable.

7. *This matter is posted on 29-04-2015. The learned AGP shall act on authenticated copy of this order and the same be transmitted to the District Superintendent of Police, Nanded and the concerned Police Station."*

29/04/2015 :-

"1 *This Court had passed an order on 01.04.2015, thereby issuing certain directions to the District Superintendent of Police, Nanded. These directions were issued taking into account the orders passed by this Court (Coram : D.G.Karnik, J.) dated 01.08.2008, 16.09.2008 and 18.09.2008.*

2 *Mr.More, learned AGP, submits that he has discussed this issue with the District Superintendent of Police, Nanded who has received the copy of this order through the Government Pleader's office. He further submits that the District Superintendent of Police would be filing his report on the next date before this Court. Mr.More, therefore, prays for a week's time.*

3 *Stand over to 07.05.2015. The matter shall appear at Sr.No.1 in the Urgent Order Category."*

2. Learned A.G.P. Mr.More has placed on record an affidavit filed

by Mr.Paramjit Singh Dahiya, presently the Supdt. of Police, Dist. Nanded dated 06/05/2015. In deference to the orders passed by this Court dated 01/04/2015 and 29/04/2015, he has submitted in paragraph Nos. 1 to 4 in his affidavit, which read as under :-

“1. I, say and submit that, to comply these directions we had formed one special team consists of one Police Officer of PSI rank and two Police Constables. In the process of execution of non-bailable warrant to applicant Mahemodkhan S/o Mansoor Khan it has been found that he has died on 13/04/2009 at Kot Bazar, Tq.Kandhar, Dist.Nanded and his permanent address is also Kot Bazar, Tal.Kandhar, Dist.Nanded. The death certificate of Mahemodkhan S/o Mansoor Khan is attached herewith and marked as Exhibit “A”.

2. I say and submit that, the Municipal Corporation Nanded has given written information about the Municipal House No.09-06-781/1, Plot No.1, in Survey No.15, at Brahmpuri, Rahamat Nagar, Nanded that there is no record of the said property on their official record. The letter of office of the Municipal Corporation, Nanded is attached herewith and marked as Exhibit “B”.

3. I say and submit that the Gram Sevak of village Kot Bazar has given information through his letter dated 05/05/2014 that the applicant is not the owner of any house and property in the Kot Bazar Village, Tq. Kandhar, Dist. Nanded. The letter of Secretary of village, Kot Bazar is attached herewith and marked as Exhibit “C”.

4. I say and submit that to trace out the properties in the entire Nanded District of applicant Mahemodkhan S/o Mansoor Khan

except the Municipal House No.09-06-781 / 1, Plot No.1, in Survey No.15, at Brahmpuri, Rahamat Nagar, Nanded, the written application dated 05/05/2015 has been given to the office of the District Superintendent of Land Record, Nanded, specifically mentioning the fact that it has been sought by the Hon'ble Court. No reply has been received so far. Letter written to the District Superintendent of Land Record, Nanded is attached herewith and marked as Exhibit "D".

3. It is thus informed that the concerned applicant Mehmood Khan S/o Mansoor Khan has passed away on 13/04/2009. His death certificate dated 02/05/2015 indicating the date of death as 13/04/2009 is also placed on record.

4. In the light of the above, the non-bailable warrant issued by this Court is recalled. The direction to attach the properties of the deceased applicant, is also recalled. Needless to state, this order is being passed relying upon the affidavit filed by the Supdt. of Police and the death certificate placed on record.

5. As such, these proceedings stand closed.

(RAVINDRA V. GHUGE, J.)