

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8837 OF 2015

Shankar B. Gujar & ors.

.. Petitioners

vs.

Sunil K. Jadhav & ors.

.. Respondents

Mr. P.B. Gujar for the Petitioners.

Mr. V.R. Gaikwad for Respondent No.1.

CORAM : M. S. SONAK, J.

DATE : 08 OCTOBER 2015.

P.C. :-

1] Rule. With the consent of and at the request of learned counsel for the parties, Rule is made returnable forthwith.

2] The challenge in this petition is to the order dated 10 April 2015 made by the Additional Commissioner, Pune Division, Pune refusing leave to bring on record the legal representatives of deceased Respondent No.5.

3] Perusal of the impugned order would indicate that the same contains no reasons whatsoever. There is only an observation that the application being made beyond 90 days, the same is rejected. This is not a proper mode to dispose of an application of this nature. On this short ground, the impugned order is liable to be set aside.

4] That apart, the learned counsel appearing for the Respondent No.1, including, proposed legal representatives of Respondent No.5, states that after the impugned order was made, the legal representative of deceased Respondent No.5 have also appeared before the Additional Commissioner, Pune and submissions/arguments have been made on their behalf. In these circumstances, the learned counsel for the Respondent No.1 submits that there is no necessity of postponing the final orders which the Additional Commissioner is required to make in the matter.

5] There is merit in the submission of the learned counsel appearing for the Respondent No.1. The learned counsel for the Petitioners also confirms that the written arguments have been filed by the Petitioners as well as the Respondents. In these circumstances, the impugned order is set aside and leave is granted to the Petitioners to carry out a formal amendment to the cause title within a period of three weeks from today. Such amendment is required to be carried out, so that the records in the proceedings before the Additional Commissioner is clear.

6] Once the amendment is carried out within a period of three weeks, the Additional Commissioner is at liberty to pronounce final orders in the proceedings before him. In case, no amendment is carried out within a period of three weeks from today, then the Petitioners shall not have the benefit of this order and the Additional Commissioner shall be at liberty to dispose of the proceeding before him in accordance with law and on its own merits.

7] Rule is made absolute to the aforesaid extent. The petition is allowed with costs of Rs.1000/- to be payable to the Respondent No.1. Costs to be paid to the learned counsel for the Respondent No.1 within a period of three weeks from today. However, the learned counsel for the Respondent No.1 states that the costs may be paid to the Kirtikar Library. The gesture is appreciated. Accordingly, the Petitioners are directed to pay costs of Rs.1000/- to the Kirtikar Library within a period of three months from today.

8] All parties to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)