

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2334 OF 2015

Shri. Bhagwan Pandurang Kature & anr. .. Petitioners
vs.
Shri. Bandu Rao Kature & ors. .. Respondents

Mr. Surel S. Shah for the Petitioners.
Mr. G.N. Salunkhe a/w. Mr. Umesh Kurud for Respondent Nos.1 & 2.
Ms Aparna Vhatkar, AGP for Respondent Nos.11 and 12.

CORAM : M. S. SONAK, J.
DATE : 12 MARCH, 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] This petition takes exception to the order dated 16 February 2015, by which the Sub-Divisional Officer (SDO) has vacated the *status quo* order dated 22 January 2015 in Appeal No.1 of 2014.

3] The records disclose that that after the *status quo* order was made on 22 January 2015, the matter was stood over to 10 February 2015. On the said date, the matter could not be heard and therefore, the same was once again stood over to 26 February 2015. On 12 February 2015, there is a record that of site visit and scheduled for 14 February 2015. There is further record that on 14 February 2015, site inspection was held in presence of the petitioners as well as the respondents and the panchanama was also drawn.

4] It is the case of the petitioners that on 26 February 2015, when the petitioners attended the hearing, which was scheduled for the said date, vide entry in Roznama dated 10 February 2015, the petitioners came to know about the impugned order made on 16 February 2015, by which the *status quo* order made on 22 January 2015 was vacated. It is the case of the petitioners that the impugned order was made without afford of any opportunity of hearing to the petitioners or their advocates.

5] The records indeed bear out that the impugned order was made without afford of any opportunity of hearing to the petitioners or their advocates. In fact, in the Roznama appended to the petition, there is no reference whatsoever to the date 16 February 2015. Accordingly, the impugned order is set aside and the same having been made in breach of principles of natural justice, the *status quo* order made on 22 January 2015 is restored.

6] The SDO, has scheduled the hearing of appeal on 17 March 2015. The SDO is directed to proceed with the hearing on the said date and thereafter dispose of the appeal, in accordance with law and on its own merits, latest by 20 March 2015. This is because, both the parties accept that such appeal is required to be disposed of expeditiously on account of sugarcane harvest season.

7] It is clarified that this Court has not examined the matter on merits and all contentions of all parties are kept open for decision by the SDO.

8] Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

9] All parties to act upon an authenticated copy of this order.

(M. S. SONAK, J.)

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