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IN THE HIGH COURT OF JUDICATURE AT MUMBAI

CIVIL APPELLATE JURISDICTION

SUO MOTU WRIT PETITION NO. 1 OF 2015

Shri Appa Shivanna Bailbhinge
(since died through his legal heirs)

1A. Smt. Tulsabai Appa Bailbhinge
(since deceased through his legal heirs)

1B Ananda Appa Bailbhinge and others .. Petitioners
Vs.
Sanjay Ramchandra Bankar and others .. Respondents

ALONG WITH
SUO MOTU WRIT PETITION NO. 2 OF 2015

Vasant Ramchandra Ratnaparkhi and anr. .. Petitioners
Vs.
Gopal Ramchandra Ratnaparkhi and others .. Respondents

ALONG WITH
SUO MOTU WRIT PETITION NO. 3 OF 2015

Damodar Pandurang Mudgul and others .. Petitioners
Vs.
The Collector, Solapur and others .. Respondents

ALONG WITH
SUO MOTU WRIT PETITION NO. 4 OF 2015

Mangal Dattu Lavate and others .. Petitioners
Vs.
Sou.Laxmibai Govind Bandgar and others .. Respondents

ALONG WITH
SUO MOTU WRIT PETITION NO. 5 OF 2015

Damodar Pandurang Mudgul .. Petitioners
Vs.
The Collector, Solapur and others .. Respondents

ALONG WITH
SUO MOTU WRIT PETITION NO. 6 OF 2015

Shamrao Bhanudas Nakate .. Petitioner
Vs.
Rajaram Gena Nakate .. Respondent

ALONG WITH
SUO MOTU WRIT PETITION NO. 7 OF 2015

Mahadev Siddheshwar Jadhav .. Petitioner
Vs.
Sindhu Mahadev Jadhav .. Respondent

ALONG WITH
SUO MOTU WRIT PETITION NO. 8 OF 2015

Vedika Nandkumar Bhivare .. Petitioner
Vs.
The Divisional Controller
M.S.R.T.C. Solapur .. Respondent

ALONG WITH
SUO MOTU WRIT PETITION NO. 9 OF 2015

Bharat Ramchandra Kute .. Petitioner
Vs.
Rajaram Shivram Walekar and anr. .. Respondents

ALONG WITH
SUO MOTU WRIT PETITION NO. 10 OF 2015

Madhuri Nandkumar Bhivare .. Petitioner
Vs.
Divisional Controller, M.S.R.T.C. Solapure .. Respondent

CORAM : R. G. KETKAR, J.
DATE : 14th AUGUST, 2015

P.C. :

. Perused the submissions dated 01/11/2014 put by the

Registrar (Inspection – II) to the Hon'ble the Chief Justice. It appears that one Shri Vasant Ramchandra Ratnaparkhi made complaint dated 16/08/2014 against Ms.S.R.Kadu, the then District Judge-1, Pandharpur (for short 'District Judge'). The Principal District Judge, Solapur (for short 'P.D.J.') submitted report dated 01/09/2014 to the Registrar General made on the basis of complaint dated 16/08/2014. In the report, the learned P.D.J. noted that in 10 Criminal Miscellaneous Applications (Bail Applications), only operative orders were dictated by the learned District Judge to the stenographer Mr.R.G.Waghmare.

2. In Special Case No. 1 of 2011, only operative order of conviction was dictated by the learned District Judge.

3. In Regular Civil Suit No. 53 of 2012, only operative order was dictated by the learned District Judge.

4. In Motor Accident Claim Petition No. 24 of 2007, it was shown to have been disposed of on 28/06/2014. However, dictation of only pleadings was given. After 14/08/2014, the learned District Judge did not have any power and authority to deliver any judgment as she was discharged from service on 14/08/2014 for not completing period of probation satisfactorily. The judgment in Motor Accident Claim Petition No. 24 of 2007 was sent to the Court after 14/08/2014, but was not signed by the learned District Judge.

5. In Regular Civil Appeal No. 204 of 2003, the judgment

was sent to the Court on 26/08/2014 which was typed on a plain paper and not typed on a bond paper.

6. The learned P.D.J. also forwarded report of Mr.Phutane, Senior Clerk and Mr.R.G.Waghmare, stenographer of the Court presided over by the learned District Judge. The report of the stenographer indicated that in Miscellaneous Applications (Bail Applications), the learned District Judge gave him dictation of only operative order. Mr.Phutane, Senior Clerk also gave his report. The submission inter alia also note various shortcomings in the orders passed by the learned District Judge.

7. The Registry submitted that the situation is peculiar and very rare as in all those cases either i) there is no judgment or ii) there is operative part but no judgment or iii) there is judgment but it is not signed and iv) in one case, judgment was typed on a plaint paper and not on a bond paper. It was forwarded only after the learned District Judge discharged from service. The learned District Judge was required to dictate the judgment, get it transcribed, sign it and then pronounce it as per Civil and Criminal Manual. The learned District Judge did not follow the procedure. She pronounced the judgments without giving the dictations. The judgments are non est. The Registry, therefore, solicited orders of the Hon'ble the Chief Justice. Accordingly, following submission 'A' was approved by the Hon'ble the Chief Justice.

> "If Your Lordship approves, the letter of Principal District Judge, Solapur dated 01/09/2014 along with annexures be forwarded to the Registrar (Judicial I) for placing the same before the appropriate Bench on Judicial side for seeking directions whether to treat it as revision under Section 115 of C.P.C. read with 151 of Civil Procedure Code for Civil matters and whether to treat it as revision under Section 401 read with Sections 482 of Cr.P.C. for Criminal matters and for further necessary action."
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> **A**

8. In pursuance thereof, the submissions dated 19/03/2015 were submitted by the Registrar (Judicial -I) before Hon'ble Mr.Justice M.S.Sonak. On 24/03/2015, Hon'ble Mr.Justice M.S.Sonak approved following submission 'A'.

> "Whether to treat 10 Suo Motu Civil Writ Petitions under Article 227 of the Constitution of India arising out of 10 Civil matters (5 Civil Appeals, 2 Misc. Civil Appeals and 3 MACPs.)"
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> **A**

9. Accordingly, these matters were treated as Suo Motu Petitions under Article 227 of the Constitution of India.

10. The Registry sought response from the learned District Judge as to whether i) the orders were communicated to the parties; ii) the orders were uploaded and consequently, they were downloaded by the parties; iii) orders were supplied to the parties; iv) orders were communicated to the parties. In response thereto communications are received from the learned District Judge to the effect that the orders were not communicated to the parties. The orders were also not uploaded and downloaded. The orders were

also not supplied. In view thereof, it is not necessary to issue notices to the parties.

11. Suo Motu Writ Petition No.1 of 2015 arises out of the judgment and order dated 28/04/2014 passed by the learned District Judge in Civil Appeal No. 206 of 2003. Office remark shows that the judgment was typed on a plain paper and not on a bond paper. In view thereof, the order dated 28/04/2014 passed by the learned District Judge in Civil Appeal No. 206 of 2003 is quashed and set aside and Civil Appeal No.206 of 2003 is restored to the file of the learned District Judge.

12. Suo Motu Writ Petition No. 2 of 2015 arises out of the judgment and order dated 14/08/2014 passed by the learned District Judge in Civil Appeal No. 53 of 2012. Perusal of office remark shows that only operative order was passed and no judgment is delivered by the learned District Judge. In view thereof, order dated 14/08/2014 is set aside and Civil Appeal No. 53 of 2012 is restored to the file of the learned District Judge.

13. Suo Motu Writ Petition No. 3 of 2015 arises out of judgment and order dated 28/06/2014 passed by the learned District Judge in Civil Appeal No. 133 of 2011. Office remark shows that Appeal was decided on 28/06/2014. However, the learned District Judge did not deliver the judgment. In view thereof, order dated 28/06/2014 is quashed and set aside and Civil Appeal No. 133

of 2011 is restored to the file of the learned District Judge.

14. Suo Motu Writ Petition No. 4 of 2015 arises out of the judgment and order dated 11/08/2014 passed by the learned District Judge in Civil Appeal No. 43 of 2009. Office remark shows that Civil Appeal was decided on 11/08/2014, however, no judgment is delivered by the learned District Judge thereon. In view thereof, order dated 11/08/2014 is quashed and set aside and Civil Appeal No. 43 of 2009 is restored to the file of the learned District Judge.

15. Suo Motu Writ Petition No.5 of 2015 arises out of the judgment and order dated 28/06/2014 passed by the learned District Judge in Civil Appeal No. 134 of 2011. Office remark shows that Civil Appeal was decided on 28/06/2014, however, no judgment is delivered by the learned District Judge thereon. In view thereof, order dated 28/06/2014 is quashed and set aside and Civil Appeal No. 134 of 2011 is restored to the file of the learned District Judge.

16. Suo Motu Writ Petition No. 6 of 2015 arises out of the judgment and order dated 20/06/2014 passed by the learned District Judge in Misc. Civil Appeal No. 114 of 2010. Office remark shows that Misc. Civil Appeal was decided on 20/06/2014, however, no judgment is delivered by the learned District Judge thereon. In view thereof, order dated 20/06/2014 is quashed and set aside and Misc. Civil Appeal No. 114 of 2010 is restored to the file of the learned District Judge.

17. Suo Motu Writ Petition No.7 of 2015 arises out of the judgment and order dated 20/06/2014 passed by the learned District Judge in Misc. Civil Appeal No. 57 of 2012. Office remark shows that Misc. Civil Appeal was decided on 20/06/2014, however, no judgment is delivered by the learned District Judge thereon. In view thereof, order dated 20/06/2014 is quashed and set aside and Misc. Civil Appeal No. 57 of 2012 is restored to the file of the learned District Judge.

18. Suo Motu Writ Petition No. 8 of 2015 arises out of the judgment and order dated 13/08/2014 passed by the learned District Judge in M.A.C.P. No. 105 of 2008. Office remark shows that M.A.C.P was decided on 13/08/2014, however, no judgment is delivered by the learned District Judge thereon. In view thereof, order dated 13/08/2014 is quashed and set aside and M.A.C.P No. 105 of 2008 is restored to the file of the learned District Judge.

19. Suo Motu Writ Petition No. 9 of 2015 arises out of the judgment and order dated 28/06/2014 passed by the learned District Judge in M.A.C.P. No. 24 of 2007. Office remark shows that M.A.C.P was decided on 28/06/2014. Though the learned District Judge delivered the judgment, she did not sign the judgment. In view thereof, order dated 28/06/2014 is quashed and set aside and M.A.C.P No. 24 of 2007 is restored to the file of the learned District Judge.

20. Suo Motu Writ Petition No. 10 of 2015 arises out of the judgment and order dated 13/08/2014 passed by the learned District Judge in M.A.C.P. No. 107 of 2008. Office remark shows that M.A.C.P was decided on 13/08/2014. However, no judgment is delivered by the learned District Judge thereon. In view thereof, order dated 13/08/2014 is quashed and set aside and M.A.C.P No. 107 of 2008 is restored to the file of the learned District Judge.

21. The learned District Judge will issue notices to the parties in the above matters and thereafter proceed in accordance with law. It is made clear that I have not examined merits of these matters. All the contentions of the parties are expressly kept open.

22. The Registry shall forthwith communicate/transmit this order to the learned P.D.J. and the concerned District Judge.

(R. G. KETKAR, J.)