

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 737 OF 2015

Sujata R. Golha	..	Petitioner
VS.		
K. S. Madhava		
since deceased (through his heirs & L.Rs.)		
Smt. Prafulla M. Kottary & Ors.	..	Respondents

Ms Latika Belindage for Petitioner.
None for Respondents.

CORAM : M. S. SONAK, J.
DATE: 01 SEPTEMBER 2015

P.C. :-

1] Ms. Belindage, the learned counsel for the petitioner makes a statement that the respondents have duly been served and that affidavit of service will be filed in the course of the day.

2] Rule, returnable forthwith. This Court whilst issuing notice to the respondents on 17 August 2015 had made it clear that this matter may be disposed of finally at the stage of admission itself.

3] The challenge in this petition is to the order dated 17 December 2013, by which the Competent Authority has rejected the petitioner's application seeking framing of preliminary issue on jurisdiction. The impugned order, the whole of it, reads thus :

“Order

Application rejected regarding the preliminary objection on jurisdiction.

Sd/-

17-12-2013

12.30 p.m.”

4] There is no necessity to advert to the merits or demerits of the case at this stage. Suffice to record that the impugned order is totally non speaking and unreasoned order. After the order was pointed out to this Court, repeated inquiries were made from the learned counsel for the petitioner as to whether this was the only order or whether, this was only the operative portion of the order. Ms. Belindage, the learned counsel for the petitioner, asserted that this was the only order and the entire order made by the Competent Authority.

5] It is settled position in law that a quasi judicial authority must indicate reasons, howsoever briefly, in support of its decision. The impugned order in this case contains no reasons whatsoever but merely, records a conclusion. The reasons provide the live link between the facts and the conclusion. Record of reasons, is by now, accepted as a facet of principles of natural justice. On these grounds alone, the impugned order is liable to be set aside and is hereby set aside.

6] The Competent Authority is directed to re-hear the petitioner's application seeking a framing of preliminary issue and thereafter, decide the same on its own merits and in accordance with law. The Competent Authority, must state, howsoever briefly, the reasons for its decision.

7] It is made clear that this Court has not examined the merits of the matter and therefore it is left to the Competent Authority to decide the petitioner's application in accordance with law and on its own merits.

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

9] All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)

C E R T I F I C A T E

“I certify that this Order uploaded is a true and correct copy of original signed Order.”

Uploaded by :
Ms. S. K. Chandka
P.S. to the Hon'ble Judge

Uploaded on: 02 September 2015