

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1005/2015

Tulshiram Pundlik Elame and others

..Versus..

Shankar Pundlik Elame and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATE : 20.7.2015

Heard Shri S.R. Deshpande, the learned advocate for the petitioners and Shri Rahul Tajne, the learned advocate for the respondent no.1.

The petitioners/defendants 3 to 7 have filed this petition challenging the order passed by the learned Principal District Judge, retransferring the matter from the Court at Khamgaon to the Court at Nandura. The reasons are recorded in paragraph no.9 of the impugned order as follows :

"9) The opponents learned advocate has submitted that the suit does not carry any merit or applicants have no interest in the suit. In fact while deciding transfer application it is not expected to go into the merits of case or locus of applicants or his interest in the suit. The opponent

contended that applicants have not made out ground for transfer. In fact the background of case itself demonstrate that the jurisdiction was with Nandura court however on allegations against presiding officer it was transfer to Khamgaon court. Since the then presiding officer of Nandura court has been transferred therefore applicants are not required to make out special case for transfer of suit. Change of presiding officer of Nandura court itself is ground so as to again restore the suit in the court who has territorial jurisdiction on the subject matter. In the circumstances the transfer application carried merit hence following order.”

In view of the facts as recorded in paragraph no.9 above and the reasons given by the learned Principal District Judge, I do not find any patent illegality in the impugned order which necessitates the interference in the extraordinary writ jurisdiction. The petition is dismissed with costs quantified at Rs.2,000/- (Rs. Two Thousand Only) to be paid by the petitioners to the respondent no.1 within one week. The petitioners shall produce the receipt on the record of the trial Court showing the payment of costs, failing which the learned trial Judge shall pass appropriate orders against the petitioners considering it to be non-compliance of the orders passed by this Court.

JUDGE