

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

CIVIL APPLICATION NO.10053 OF 2016
IN
PIL NO.147 OF 2014

Vishal S/o Kaduba Pakhare and others Vs. State of Maharashtra and others.

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.B.L.Sagar Killarikar, advocate holding for
 Mr.M.B.Sandanshiv, advocate for the applicants.
 Mrs.M.A.Deshpande, Addl. Government Pleader for the State.
 Mr.R.N.Dhorde, Senior advocate holding for
 Mr.V.S.Kadam for Respondent No.5 in PIL
 Mr.A.S.Bajaj, advocate for Respondent Nos.2 and 3 in PIL.

**CORAM : S.V.GANGAPURWALA AND
 K.L.WADANE, JJ.**
Date : 09.12.2016.

PER COURT :

1. Heard.
2. The present Civil Application is filed in the Public Interest Litigation, thereby assailing the order dated 5.7.2016. Pursuant to the said order, the Hon'ble Minister, Urban Development, has granted stay until further orders and also vide the said order issued mandatory directions.
3. Mr.Killarikar, learned counsel for the applicants submits

that the State Minister did not possess any jurisdiction to entertain the said application/appeal. The said order is without jurisdiction. The learned counsel further submits that though this Court had directed to extend hearing to all the parties concerned, the present applicants were not arrayed as party in the proceeding before the State Minister, no intimation was given to the present applicants about any hearing to be conducted nor even the copy of the appeal/application was served upon the present applicants. Even prior to the order being passed, the present applicants had communicated the office of the Hon'ble Minister about their right to be heard. While passing the impugned order, the principles of fairness, natural justice have been flouted and this Court may set aside the said order being without jurisdiction.

4. Learned Addl. Government Pleader states that the order impugned in the present Civil Application is an interim order. No final order is passed.

5. We have also heard Mr.Dhorde, learned Senior advocate for the non-applicant No.5, so also Mr.Bajaj, learned counsel for Respondent Nos.2 and 3.

6. This Court under its order dated 15.6.2016 in W.P.No.6177/2016 had observed that the remedy of appeal was availed by the institution against the order of sealing the premises and that since the appeal is pending with the State Government, had

refrained from causing interference in the matter. The State Government was directed to take decision in the appeal in accordance with the provisions of the law and after extending hearing to all the parties concerned.

7. It appears that when the impugned order was passed, the present applicants were not noticed nor were intimated about filing of such proceedings. The present applicants are the petitioners in Public Interest Litigation No.147/2014.

8. As it is submitted by the learned A.G.P. that the proceedings are not finally decided and only interim order was passed and the Hon'ble Minister would hear the matter on 4.1.2017, we pass the following order :

a) The present applicants and non-applicants herein shall appear before the Hon'ble Minister on 4.1.2017 and may put forth their stand before him. The Hon'ble Minister shall consider the submissions of either of the parties and take decision upon the appeal/application filed by the institution expeditiously, preferably by 30.1.2017.

b) All contentions of respective parties are kept open.

c) The non-applicant No.5 shall supply the copy of the application/appeal along with the documents, if any, filed before the Hon'ble Minister prior to the date of hearing i.e. 4.1.2017.

Needless to state the party aggrieved would be entitled to have

further recourse as is permissible in law.

d) The Civil Application is disposed of. No costs.

(K . L . WADANE , J .)

(S . V . GANGAPURWALA , J .)

Dt.09.12.2016.
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