

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO.11442 OF 2016

Shri. Hanumant Sonba Undre

.. Petitioner

Versus

Additional Commissioner,

Commissioner Office, Pune Division,

Pune and others

.. Respondents

ALONG WITH

WRIT PETITION (STAMP) NO.11444 OF 2016

Smt. Shakuntala Ramkrushna Undre

.. Petitioner

Versus

Additional Commissioner,

Commissioner Office, Pune Division,

Pune and others

.. Respondents

Mr. V. D. Patil a/w Mr. Chaitanya Nikte, for the Petitioners.

Mr. S. D. Rayrikar, AGP for the Respondent Nos.1, 2, 5, 6 & 8.

Mr. S. R. Nargolkar i/by Mr. Swapnil Mohite, for the Respondent No.3.

CORAM : R.M. SAVANT, J.

DATE : 28th APRIL 2016

PC.

1. The writ jurisdiction of this Court is invoked against the orders dated 11.04.2016 passed by the Respondent No.1 herein i.e.

Additional Commissioner, Pune Division, Pune, refusing to continue the stay which was in operation in the proceedings filed by the Petitioner in each of the above Petitions.

2. The Petitioners were elected as members of the Gram Panchayat Manjari Khurd, Taluka Haveli, District Pune. The Respondent No.3 in both the Petitions is the complainant and had filed the dispute application for disqualifying the Petitioners under Section 14(j-3) of the Maharashtra Village Panchayats Act (for short "the said Act"). The gravamen of the allegation against the Petitioners was that they have encroached on Government land, which encroachment attracted Section 14(j-3) of the said Act. The said dispute application filed by the Respondent No.3 came to be allowed by the Additional Collector, Pune by his orders both dated 21.03.2016 and the Petitioners were unseated as members of the Gram Panchayat.

3. The Petitioners aggrieved by the said orders dated 12.02.2016 passed by the Additional Collector, Pune filed Appeals before the Additional Commissioner, impugning the said order dated 12.02.2016. In the said Appeals the Respondent No.1 on 21.03.2016, directed the Sub Divisional Officer, Haveli and the Chief Executive Officer of the Zilla Parishad, Pune to submit their reports and granted stay to the order

passed by the Additional Collector. The Appeals came to be adjourned to 05.04.2016. On which day the stay was continued. The Appeals thereafter appeared on 11.04.2016 on which day, the Petitioners applied for continuation of the stay which was in operation till then i.e. 11.04.2016. On the said day though the Petitioners applied for continuation of the stay, the Respondent No.1 refused to extend the stay which has resulted in filing of the above Petitions. In my view, since the stay was in operation till 11.04.2016 and since there is absolutely no reason mentioned by the Respondent No.1 i.e. the Additional Commissioner as to why he has not continued the stay and since Appeals filed by the Petitioners are pending, it would be in the interest of justice to continue the stay which was in operation till 11.04.2016 till a decision is rendered in the Appeals filed by the Petitioners. The Learned Counsel appearing on behalf of the Respondent No.3 Mr. S. R. Nargolkar points out that the Appeals had come up on 25.04.2016 and have now been kept on 30.04.2016 for hearing, the Respondent No.1 is therefore directed to hear and decide the Appeals expeditiously. The stay which was in operation till 11.04.2016 would continue to operate till a decision is rendered in the Appeals.

4. Needless to state that the contentions of the parties are kept open. Further needless to state that the Appeals would be decided on their own merits and in accordance with law and the fact that the stay is

continued by this Court should not be construed as any expression of opinion on the merits of the case. The Petitions are accordingly allowed to the aforesaid extent.

5. Parties to act upon a copy of this order duly authenticated by the Court Shirestedar.

[R.M. SAVANT, J]