

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6015 OF 2016

Ms Usha M. Bhosale and ors. .. Petitioners
vs.
The Tahasildar, Tal. Sirpur Dist.
Pune and ors. .. Respondents

Mr. K.P. Shah for the Petitioners.
Ms Vaishali Nimbalkar, AGP for State- Respondent Nos.1 to 3.
Ms Shakuntala S. Wadekar for Respondent Nos.5 and 7.

CORAM : M. S. SONAK, J.
DATE : 20 JUNE 2016.

P.C. :-

1] Learned counsel for the petitioners states that necessary service has been effected upon respondent No.6, who is one of the original applicant. The other two original applicants, i.e., respondent Nos.5 and 7 are represented by the learned counsel Ms Wadekar. Accordingly, Rule. Rule is made returnable forthwith.

2] Heard Mr. K.P. Shah, learned counsel for the petitioners, Ms Shakuntala Wadekar, learned counsel for respondent Nos.5 and 7 and Ms Nimbalkar, learned AGP for respondent Nos.1 to 3.

3] Considering the peculiar facts and circumstances of the present case, this petition can be disposed of with the order made hereafter. In fact, the learned counsel appearing for the parties have agreed to making of such order. Such order, in the facts and circumstances of the present case, will serve the interests of contesting parties as well as the cause of justice.

4] At the behest of respondent Nos.5,6 and 7, the Tahsildhar made an order dated 7 October 2015. Aggrieved by the same, the petitioner instituted RTS Appeal No. 117 of 2016 before the SDO – respondent No.2. Initially, respondent No.2 directed the parties to maintain *status quo*. However, it is the case of the petitioners that the respondent No.2, upon being influenced by the order/direction dated 12 April 2016 made by the Minister (Revenue) has declined to extend the *status quo*, pending the appeal. Learned counsel for the petitioners has submitted that the Minister (Revenue) , in the first place, had no jurisdiction to entertain any proceedings, when, the appeal was pending before the SDO and in any case, the order/direction dated 12 April 2016 is *ex-facie*, null and void, because, the petitioners were neither heard before making of the same nor does the same contain any reasons whatsoever. The

learned counsel for the petitioners also submits that the impugned order dated 10 May 2016, by which the SDO has declined to extend the *status quo* is also a non-speaking orders and therefore, violates principles of natural justice and fair play.

5] This Court, on 14 June 2016 made an interim order. Further, the matter was adjourned to 20 June 2016 to enable respondent No.2 to remain present in the Court for giving instructions to the learned Additional Government Pleader. Respondent No.2 has personally present in the Court and has imparted necessary instructions to the learned Additional Government Pleader.

6] In the present case, there was really no occasion for the Minister (Revenue) to entertain any proceedings. In any case, the order/direction dated 12 April 2016 could never have been made without afford of opportunity of hearing to the petitioners. Besides, the order/direction dated 12 April 2016 contained no reasons whatsoever. Accordingly, case is made out to set aside the said order, which is hereby set aside.

7] The contention of learned counsel for the respondents that the order/direction dated 12 April 2016 is merely innocuous order, is noted. Respondent No.2 has instructed learned AGP to state that he was not even aware of the order/direction. This is also noted. Since respondent No.2 had earlier granted *status quo* and the same has been vacated without record of any reasons, the order dated 10 May 2016 vacating the *status quo* is hereby set aside. The *status quo* is therefore, restored, pending the hearing and final disposal of the appeal before the respondent No.2.

8] Ms Wadekar, learned counsel for respondent Nos.5 and 7-original applicants, is however, right in her submission that the delay in disposal of the appeal before respondent No.2 is bound to affect the original applicants, who claim to be project affected persons. Learned counsel for the petitioners states that even the petitioners are project affected persons. At this stage, it is not possible for this Court to comment upon the rival contentions. If however, both the petitioners as well as the respondents claim to be projected affected persons, it is only proper that respondent No.2 disposes of the appeal before him, as expeditiously as possible and in any case within a period of four weeks from today.

9] The parties agreed to cooperate in the matter of expeditious disposal of the appeal. In particular, the petitioners shall not seek unnecessary adjournment in the matter, now that the *status quo* has been ordered to operate during pendency of the appeal.

10] Further, respondent No.2 is directed to dispose of such appeal, without being influenced by the order/direction dated 12 April 2016, which in any case, has now been set aside.

11] All contentions of all parties are kept open to be decided by respondent No.2, in accordance with law and on their own merits.

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

13] All parties to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)