

WRIT PETITION NO. 10554 OF 2016

Versus

... Respondents.

Mr.Sachin Kankal, AGP for Respondent Nos.3 to 5.

DATE : 16TH SEPTEMBER, 2016.

3] The learned counsel for the petitioners submit that the

Additional Divisional Commissioner Pune, Division Pune without issuing any notice to the petitioners and without hearing the petitioners passed the impugned order which is against justice, equity and consciousness. In support of this contention the advocate for petitioners relies on ground No.(F) taken in petition, which reads thus;

“(F) The Petitioners submit that though it is mentioned in the impugned order that the Petitioners were served with the copy of above referred proceedings, however, the documents produced by the Petitioners, it is very much clear that the notice of said proceedings were not served upon the Petitioners and on that count itself the impugned order is required to be quashed and set aside.”

4] The learned counsel for the petitioners submit that as the impugned order dated 18th August, 2016 passed without hearing to the petitioner, same is required to be set-aside. He submits that in the interest of justice the matter be remanded to the the Additional Divisional Commissioner Pune, Division Pune for rehearing after giving opportunity to the petitioner to file their documents and/or pleadings.

5] On the other hand the learned counsel Mr.Thorat

appearing on behalf of the respondent No.2 filed affidavit dated 15th September, 2016 stating that they have no objection, if the matter is remanded for rehearing on its own merits after giving opportunity to both the sides to file their additional pleadings.

6] When this Court called upon the learned Asst. Government Pleader about the service on petitioners in appeal before the Additional Divisional Commissioner Pune, Division Pune, he is unable to say anything about the same for want of instructions.

7] Considering the submissions made by the learned counsel for the petitioners and the affidavit filed by respondent No.2 and the ground No.(F) in Writ Petition, I satisfied that the petitioners has made out a case for remanding the matter to the Additional Divisional Commissioner Pune, Division Pune for rehearing on its own merits. Hence following order;

- a) The order dated 18th August, 2016 passed by the Additional Divisional Commissioner Pune, Division Pune in Appeal No.139 of 2014 is set-aside.
- b) The matter remanded to the Additional Divisional Commissioner Pune, Division Pune for hearing on its own merits after giving opportunity to all the parties to file their pleadings.

- c) Parties are directed to appear before the the Additional Divisional Commissioner Pune, Division Pune for fixing date of hearing on 3rd October, 2016.
- d) The Additional Divisional Commissioner Pune, Division Pune is directed to decide the appeal as early as possible on its own merits.
- e) Parties to act upon the authenticated copy of this order.

(K.K. TATED, J.)