

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No. 2703 of 2016

ORDER:-

Heard.

2. Petitioner has questioned the interim order passed by the Special Grade Deputy Collector & Revenue Divisional Officer, second respondent, under impugned proceedings No.M/4500/2015 dated 30.12.2015. The said proceedings were initiated by the fourth respondent on behalf of the father of the petitioner, who is stated to be bed ridden and disabled. The third respondent filed a claim under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, wherein the second respondent is stated to have issued notice to the petitioner and as there was no appearance of the petitioner in spite of service of notice, he passed an interim order directing that a sum of Rs.5,000/- be deducted from the salary of the petitioner and send the deducted amount for the maintenance and welfare of the father of the petitioner, respondent No.3 herein. Questioning the said order, petitioner has approached this Court by this writ petition on the ground that no notice was served on him.

3. On 29.01.2016, I had passed the following order:

“On the averment of the petitioner that he did not receive any notice from the 2nd respondent before passing of the impugned order, let the learned Government Pleader for Revenue, who takes notice for R2, shall produce the record of the 2nd respondent leading to passing of the impugned order to verify whether notice was served on the petitioner or not.

Notice to R3 is not ordered at present in view of the fact that he is bedridden. Sri R.N.Mittal, Chairman, Association of Senior Citizens, Hyderabad is suo moto impleaded as a party to this writ petition. Office shall issue notice to Sri R.N.Mittal, bearing H.No.6-2-333/14A, R.No.3, Banjara Hills, Hyderabad-34.

Pending further orders, the impugned order shall remain suspended subject to the condition of the petitioner depositing a sum of Rs.15,000/- (Rupees fifteen thousand only) to the bank account of the 3rd respondent, as mentioned in the impugned order, within one week from today.”

4. Today, when the matter is taken up, the third respondent is represented by Sri Pushyam Kiran. Learned Government Pleader for Revenue also had received instructions which state that the notice was served based upon the tracking record information received from the

Department of Posts online. Since the said endorsement shows that the article is delivered, the second respondent appears to have deemed that the notice was served on the petitioner and then passed the impugned order.

5. A close examination of the said print out issued by the postal endorsement shows that the notice was sent on Begum Bazar Post Office on 03.11.2015 and it reached the post at Rohini Sector-7, New Delhi, but thereafter it appears to have not been delivered to the petitioner and returned to the post office on 16.11.2015. Hence, it appears that notice was not served on the petitioner. Since that is the primary grievance of the petitioner, the said claim deserves to be accepted. Consequently, the impugned order which is already suspended, as above, shall stand set aside.

6. The Writ Petition is accordingly allowed with the following directions:

- i) The second respondent shall conduct fresh enquiry into the main application of the respondents and consider whether he deserves to be granted appropriate relief under the Act aforesaid.
- ii) The second respondent shall issue fresh notice of date of hearing to the petitioner and also mark a copy thereof to the learned counsel for the petitioner, fourth respondent, as well as learned counsel for the fourth respondent.
- iii) The second respondent shall hear both the parties on the date so fixed and pass appropriate orders in accordance with law.
- iv) The third respondent is free to utilize the amount of Rs.15,000/-, which is stated to have been deposited by the petitioner in the third respondent's bank account, in pursuance of the orders of this Court dated 29.01.2016, subject to final orders that would be passed by the second respondent in pursuance of this order.

As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

February 15, 2016
LMV