

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3104 OF 2016
(Rajesh Laxman Patil and others Vs. The State of Maharashtra and
others)

Mr.V.B.Patil, Advocate for the petitioners.
Mr.Girish Nagori, Advocate for respondent No.3.
Mr.S.K.Tambe, AGP for respondent Nos. 1 and 2.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 04/07/2017

PER COURT :

1. The petitioners in this petition are challenging the order dated 05/01/2016 passed by respondent No.1 which is an ex-parte order. The only grievance put forth by the petitioners is that they were not given a reasonable opportunity of hearing and were not heard before passing the impugned order.

2. Learned Advocate for respondent No.3, who is the appellant before respondent No.1, submits on instructions that the request of these petitioners could be accepted subject to a time frame to be given to respondent No.1 for rehearing the appeal.

3. It is the case of the petitioners that their names were not mentioned in the cause title of the appeal and hence they were not

issued with notices, much less heard in the matter.

4. The Nashirabad Nagari Sahakari Patsanstha Maryadit through its Chairman and Vice Chairman as well as Board of Directors and the Manager have been impleaded as respondent Nos. 3 and 4 in the appeal before respondent No.1. None of these respondent Nos. 3 and 4 appeared before respondent No.1, which is a specific observation in paragraph No.2 of the impugned judgment. Even in this petition, the 18 petitioners have not stated as to what is their individual status vis-a-vis respondent No.3 Society. No details are mentioned as regards why they should be arrayed in their individual capacity before respondent No.1.

5. Mr.Patil submits that since Section 88 enquiry was conducted against the petitioners individually and they have been exonerated, they should have been arrayed as respondents in further proceedings.

6. Mr.Patil, learned Advocate graciously states that an amount of Rs.10,000/- would be paid as costs for seeking a remand in the matter and for seeking addition as respondents in the appeal, which these petitioners could have sought before respondent No.1 when the

proceedings were pending. Learned AGP and the learned Advocate for respondent No.3 graciously submit that the said amount can be donated to the Advocate Associations' Bar Library, High Court, Aurangabad.

7. Considering the above, this petition is partly allowed. The impugned order dated 05/01/2016 is quashed and set aside and Appeal No.A-159/2014 is remitted to respondent No.1 with the following directions :-

- [a] The petitioners shall deposit an amount of Rs.10,000/- in the Advocate Associations' Bar Library, High Court, Aurangabad on or before 21/07/2017.
- [b] All these litigating parties inclusive of the 'to be added respondents', would appear before respondent No.1 on 25/07/2017 at 12.00 noon and formal notices need not be issued by respondent No.1.
- [c] Respondent No.3 herein which is the appellant before respondent No.1 shall add all these petitioners as respondent Nos. 5 to 22 on the date of appearance.
- [d] All these added respondents and the litigating sides would be at liberty to submit their written notes of submissions before respondent No.1 and they shall participate in the hearing of

this matter on such dates on which respondent No.1 would post the matter for hearing.

- [e] Respondent No.1 shall endeavour to decide these proceedings as expeditiously as possible and preferably on or before 30/11/2017.

(Ravindra V.Ghuge, J.)