

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.3504 OF 2014

- 01 Rajendra s/o Sudam Patil,
age: 47 years, Occ: service,
R/o Lahan-Shahade,
Taluka & District Nandurbar.
- 02 Bhagwan s/o Mohan Patil,
age: 32 years, Occ: Agriculture,
R/o Lahan-Shahade,
Taluka & District Nandurbar.
- 03 Kiran s/o Mohan Patil,
age: 36 years, Occ: Agriculture,
R/o Lahan-Shahade,
Taluka & District Nandurbar.
- 04 Mahesh s/o Narendra Choudhari,
age: 29 years, Occ: Agriculture,
R/o Lahan-Shahade,
Taluka & District Nandurbar.
- 05 Ambalal s/o Rohidas Choudhari,
age: 48 years, Occ: Agriculture,
R/o Lahan-Shahade,
Taluka & District Nandurbar.
- 06 Sou. Anita Rajendra Patil,
age: 38 years, Occ: Household,
R/o Lahan-Shahade,
Taluka & District Nandurbar.
- 07 Bharat Bhabuta Patil,
age: 56 years, Occ: Agriculture,
R/o Lahan-Shahade,
Taluka & District Nandurbar.

Petitioners

Versus

- 01 Jivan Vidya Prasarak Mandal,
Lahan-Shahade, Tq. & District
Nandurbar.

02 Nathu Narayan Choudhari,
age: 95 years, Occ: Agriculture,
R/o Lahan Shahade,
Taluka & District Nandurbar.

03 Bhatachi Katthu Patil (died)

04 Badhu Babu Patil (died)

05 Limaji Madan Choudhari,
age: 85 years, Occ: Agriculture,
R/o Lahan-Shahade,
Taluka & District Nandurbar.

06 Laxman Sajan Patil (died)

07 Dashrath Dharu Choudhari

Deleted vide Court's
order dated 21.11.2015

08 Bhanudas Gopal Choudhari
(died)

09 Nana Trimbak Patil,
age: 70 years, Occ: Agriculture,
R/o Kolde, Tq. & District
Nandurbar.

10 Narottam Gopal Patil (died),

11 Shankar Samaji Patil (died)

12 Bulakhi Chhagan Patil,
age: 72 years, Occ: Agriculture,
R/o Khodasgaon,
Tq. & District Nandurbar.

13 The State of Maharashtra,
through the Assistant Charity
Commissioner, Nasik Region,
Nasik.

Respondents

Mr.K.M.Nagarkar, advocate for petitioners

Mr.Chandrakant Patil, advocate holding for Mr.S.U.Choudhari, advocate for Respondents No.1, 2, 5, 9 and 12.

Mr.A.P.Baraskar, advocate for Respondent No.13.

Mr.Ujjwal Patil, advocate advocate for Respondents.

CORAM : S.B.SHUKRE, J.

DATE : 02nd February, 2017

ORAL JUDGMENT :

1 Heard. Rule. Rule made returnable forthwith and heard finally by consent of learned Counsel for respective parties.

2 The impugned order, it appears, has been passed considering the contention of learned Counsel for contesting respondents that the affidavit in lieu of examination-in-chief by the petitioners has been filed about one year prior to the passing of the impugned order and the petitioners did not take any steps to enter into the witness Box, though the petitioners have brought to the notice of the learned Joint Charity Commissioner that they have filed an application for transfer of the matter to some other Court and as such, some time may be granted in the matter.

3 The paper book of the petition discloses that the said application filed on 09.01.2014 was not considered by the learned Joint Charity Commissioner and he went on passing the impugned order recording a finding that the petitioners have refused to enter into the witness box for rendering further examination-in-chief as well as cross examination. It is significant to note that while observing so, the learned Joint Charity Commissioner did not utter a single word about filing of the application by the petitioners seeking adjournment on the ground mentioned earlier. The impugned order, therefore, reflects denial of reasonable

opportunity of being heard to the petitioners and, as such, same would not stand in the eye of law.

4 In the result, writ petition is allowed. The impugned order is quashed and set aside and the matter is remanded back to the Joint Charity Commissioner, Nasik, for consideration afresh, in accordance with law.

5 Rule is made absolute in above terms. No costs.

S.B.SHUKRE
JUDGE

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