

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.3513 OF 2014

01 Rajendra s/o Sudam Patil,
age: 47 years, Occ: service,
R/o Lahan-Shahade,
Taluka & District Nandurbar. Petitioners

Versus

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

02 Dashrath Dharu Patil Deleted as per
Court's order dated
06.05.2015.

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

04 Bhataji Katthu Patil (deceased)

05 Bandu Babu Patil (deceased)

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

07 Laxman Sajan Patil (deceased)

08 Bulakhi Chhagan Patil,
age: 72 years, Occ: Agril.,
R/o Khodasgaon, Taluka and
District Nandurbar.

09 Bhanudas Gopal Choudhari
(deceased)

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

11 Narottam Gopal Patil (deceased),

12 Shankar Samaji Patil (deceased)

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

Respondents

Mr.K.M.Nagarkar, advocate for the petitioner
Mr.Chandrakant Patil, advocate holding for Mr.S.U.Choudhari,
advocate for Respondents No.1, 3, 6, 8 and 10.
Mr.A.P.Baraskar, advocate for Respondent No.13.

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 petitioner has been filed about one year prior to the passing of the impugned order and the petitioner did not take any steps to enter into the witness Box, though the petitioner has brought to the notice of the learned Joint Charity Commissioner that he has 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 10.01.2014 was not considered by the learned Joint Charity Commissioner and he went on passing the impugned order recording a finding that the petitioner has 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 petitioner seeking adjournment on the ground mentioned earlier. The impugned order, therefore, reflects denial of reasonable opportunity of being heard to the petitioner 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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