

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6300 OF 2015
(Deepak Wamanrao Balshetwar Vs. Raman Bhagwandas Patel
and others)

Mr.S.V.Natu, Advocate for the petitioner.
Mr.S.M.Biyani h/f Mr.V.S.Bedre, Advocate for respondent No.1.
Mr.P.S.Pawar, Advocate for respondent No.4.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 13/09/2017

PER COURT :

1. The petitioner is aggrieved by the order dated 07/04/2015 passed on application Exh.121 in Spl.Dkt.No.26/2009.

2. While passing an order on 06/09/2017 after hearing all the sides at length, I had observed in my order as under :-

“1. The learned Advocates for the petitioner, respondent No.1 and respondent No.4 submit that they have no objection if this Court hears this petition.

2. Respondent No.3 has already been deleted. Respondent No.2 is the wife of respondent No.1. She has not entered an appearance either through an Advocate or in person, though served.

3. I have heard the learned Advocates for the respective

sides at length. Before proceeding to dictate the order, I find it appropriate to call upon respondent No.4 to file an affidavit in this Court that he shall henceforth not make allegations against the Judges, who are dealing with Special R.D. No. 26 of 2009 and even in future in the said proceedings, keeping in view that on the basis of allegations and threats that complaints would be lodged before the Honourable the Chief Justice of the Bombay High Court, the Honourable Administrative Judge of the Aurangabad Bench, Secretary, Special Intelligence Department, Mumbai and other Judges, he has succeeded in getting the execution proceedings transferred from three Judicial Officers. Shri Pawar, learned Advocate submits that he would take instructions and make a statement.

4. *S.O. to 8.9.2017 for passing orders.*

5. *Civil Application No.3672 of 2016 is rendered infructuous as respondent No.4 has appeared in this matter. The said application is, therefore, disposed off."*

3. Pursuant to the above, respondent No.4 Mr.Girish Raman Patel has tendered an affidavit dated 13/09/2017 stating on oath that henceforth he would not make any allegation against the Hon'ble Judges dealing with Special R.D.No.26/2009 and would participate in the proceedings by following the due process. The said affidavit is taken on record and marked as Exhibit "X" for identification. The

parties are at liberty to place a copy of the document affidavit Exh."X" before the Trial Court in execution proceedings.

4. Learned Advocates for the respondents have strenuously defended the impugned order by which the Executing Court, which had earlier passed an order below Exhs.118 and 119 with regard to attachment of the property, has considered Exhibit 121 filed by respondent No.4 as an objection under Order 21 Rule 58 of the CPC. The Trial Court has observed that the decree holder would clarify the propriety of the order of attachment passed by the same Court with a further direction that the decree holder would make it clear whether the property mentioned in Exhibit 118 and 119 can be attached for the recovery of the amount from the judgment debtor.

5. Learned Advocate for the respondents vehemently submit that the impugned order can neither be termed as perverse nor erroneous. The Executing Court has found it appropriate to pass the said order and no interference is called for.

6. I find from the record that the decree holder had moved an application Exh.118 indicating that the property identified deserves to be attached. Application Exh.119 was further filed seeking a

direction to depute the Head Bailiff for execution of the warrant. The learned Judge (Mr.G.G.Bhansali) considered Exhs.118 and 119 in the light of Order 21 Rules 64 and 66 of the CPC and ordered that both the applications are allowed and the property mentioned /described as Royal Residency, CTC No.20592/36, plot No.21 situated at Nirala Bazar, Aurangabad, be sold by public auction under Order 21 Rule 66 of the CPC. The warrants were issued through the Head Bailiff.

7. Respondent No.4 appeared in person and filed Exhibit 121. Strangely enough, he narrates the details of all his complaints filed against the learned Judges. He has also made a statement that he has lodged several complaints against the same Judge and the matter should be transferred.

8. In the above backdrop, inspite of the above order passed on 03/03/2015, the same learned Judge has passed the impugned order and has very strangely and shockingly directed the petitioner to clarify the propriety of the orders passed by the learned Judge himself.

9. The impugned order shocks my judicial conscience. Once the same learned Judge has passed the order dated 03/03/2015, unless

a review application is filed, if so permissible in law, the same learned Judge could not have entertained Exhibit 121 and could not have directed the decree holder to clarify the propriety of the orders passed by the learned Judge. To say the least, the impugned order indicates lack of application of mind on the part of the learned Judge and is against the tenets of law.

10. I find that since respondent No.4, who appeared in person, while filing Exh.121, had practically threatened the learned Judge and that may have caused an adverse impact on the said learned Judge, who, in my view, should have acted fearlessly.

11. Considering the above, the impugned order is quashed and set aside. Application Exh.121 stands rejected. Keeping in view the atrocious behaviour of respondent No.4, he shall henceforth be precluded from appearing in person before any Court, Tribunal or Authority, save and except by engaging a practicing Advocate in the matter. In fact, he deserves to be tried for contempt of Court. However, since he has filed an affidavit stating that he shall not make allegations against any Judge, I am not initiating contempt proceedings against him.

12. Respondent No.4 may participate in the execution proceeding No.26/2009 through a practicing Advocate and all his contentions in law are kept open. Any misdemeanor of any nature on the part of respondent No.4 with regard to court proceedings, shall make him liable for punishment for aggravated contempt.

13. Needless to state, since the execution proceedings are pending from 2009, neither of the sides are at liberty to seek adjournments on unreasonable and frivolous grounds and the Executing Court shall proceed to decide the proceedings on its own merits and within nine months from today.

14. The Registrar (Judicial) shall place a copy of this order before the Learned Principal District Judge of the district in which the learned Judge Mr.G.G.Bhansali is presently posted or before the Secretary, Law and Judiciary in the event the said learned Judge is posted in the said department. Pursuant thereto, the learned Principal District Judge/Secretary, Law and Judiciary Department, as the case may be, shall invite Mr.Bhansali for counselling him so as to make him aware that he is expected to work fearlessly and independently and thereafter, submit a brief report to this Court.

(Ravindra V.Ghuge, J.)