

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6287 OF 2016

Bashnuribee w/o Shaikh Khalil & others

Petitioners

Versus

The State of Maharashtra & others

Respondents

Mr. V.M. Maney, advocate for the petitioners

Mr. N. T. Bhagat AGP for Respondent Nos.1 to 4

CORAM : **RAVINDRA V. GHUGE, J**

(Date : 25th July, 2017.)

PER COURT :-

1 The petitioners are aggrieved by the order dated 21.4.2016 by which Appeal C.S./Appeal/S.R.1638/2016 has not been entertained and respondent No.2 has concluded that the said Appeal need not be entertained even at a primary stage and is disposed of. Grievance is that the Appeal of the petitioners is disposed of without even issuing notices to the parties and without allowing them to address the mind of respondent No.2.

2 Learned AGP has placed reliance on the affidavit in reply filed by the District Superintendent of Land Records and strenuously supports the impugned order. He submits that, the order challenged in the Appeal, in fact, aims at causing complete enquiry in the matter and hence, the Appeal of the petitioners was disposed of.

3 It is trite law that, once a proceeding is instituted by a litigant and grounds for challenge to the impugned order are set out, the competent authority is expected to hear the parties and after considering the merits of the matter, pass a reasoned order. It is never a matter of debate as to what type of order he should pass.

5 In the instant case, it is apparent that, the Appeal has been disposed of by concluding that, it need not be entertained even at the primary stage.

6 In the light of the above, the impugned order is set aside. Appeal C.S./Appeal/S.R.1638/2016 is remitted to the office of respondent No.2 for a proper hearing. The petitioners and the concerned respondents agree to appear before respondent No.2 on 11.8.2017 at 3 p.m. and abide by the further dates of hearing in the matter. Respondent No.2 need not issue notices as all the parties agree to appear on the above date and time.

7 Needless to state, respondent No.2 shall consider the rival contentions and decide the Appeal on its own merits by passing a reasoned order.

(RAVINDRA V. GHUGE , J)