

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2001 OF 1997

Shri. Appa P. Lokhande .. Petitioner
vs.
The State of Maharashtra and anr. .. Respondents

None for the Petitioner.
Mr. S.D. Rayrikar, AGP for the Respondents - State.

CORAM : M. S. SONAK, J.
DATE : 22 SEPTEMBER 2017.

P.C. :-

1] None for the petitioner. Mr. S.D. Rayrikar, learned AGP for the Respondents - State.

2] This Court on 1st September 2017 made the following order:

“P.C.

None for the Petitioner. Perusal of the memo of the Petition more particularly ground (l) indicates that it is the case of the Petitioner that the impugned orders at Exhibits 'S' and 'T' are passed without giving any proper hearing to the Petitioner. It is his contention that the Petitioner was directed to produce the agreement within six weeks time and before this was done the impugned orders came to be passed. To this categorical assertion no reply is filed till date.

2. By way of indulgence two weeks' time granted to the Respondent – State to file reply affidavit, failing which the assertion in ground (l) will be taken as correct and the Court will proceed to pass appropriate order”.

3] Although, no affidavit-in-reply has been filed, Mr. Rayrikar, learned AGP makes a statement that no hearing was given to the

petitioner. He also places on record communication dated 21st September 2017, on basis of which, he makes this statement. The communication dated 21st September 2017 is placed on record.

4] In view of the aforesaid, the impugned orders dated 26th February 1997 and 13th March 1997 are hereby set aside. Accordingly, the matter is remanded to the Sub-Divisional Officer (SDO), Dahanu Division, Dahanu to decide the matter afresh in accordance with law and on its own merits.

5] The SDO to issue notices to the parties, since today neither the petitioner nor his advocate appears in this matter.

6] Upon perusal of the memo of petition, it is seen that there is reference to the impugned orders in the Index, which are indicated as Exhibits-S and T at pages 55 and 63 respectively. However, the paper-book of this petition ends at page 44. Mr. Rayrikar, learned AGP, has however, produced the original record and in such record, the impugned order dated 26th February 1997 finds place.

7] Rule is made absolute in the aforesaid terms. There shall be no order as to costs.

8] Mr. Rayrikar, learned AGP states that this order will be communicated to the SDO, who is requested to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)