

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6057 OF 2014

Shree Kshetra Mahabaleshwar
Devasthan Trust ..Petitioner
versus
The Executive Magistrate
Mahabaleshwar, Dist. Satara
and ors. . ..Respondents

WITH
CIVIL APPLICATION NO. 1686 OF 2015

Mahesh B. Panchal .. Applicant
In the matter of
Shree Kshetra Mahabaleshwar
Devasthan Trust ..Petitioner
versus
The Executive Magistrate
Mahabaleshwar, Dist. Satara
and ors. . ..Respondents

Mr. Vijay Killedar for the Petitioner.
Mr. B.V. Samant, AGP for the Respondent Nos.1 to 4 – State.
Mr. V.S. Kapse a/w. S.D. Chavan for Respondent No.5.
Mr. Ravi Mishra for the Applicant in CAW-1686-15.

CORAM: S. C. DHARMADHIKARI &
SMT. BHARATI HARISH DANGRE, JJ.
DATE : 9TH FEBRUARY, 2018

P. C. :

1] The petitioner before us is Shree Kshetra Mahabaleshwar Devasthan Trust.

2] It has filed this petition seeking following relief:

“(b) That this Hon'ble Court be pleased issue a Writ of Mandamus and/or a Writ, order or direction in the nature of Writ or Mandamus

and thereby be pleased to direct the Respondents to implement and give effect to the said Circular bearing DEV 2010/PK 9/L04 dated 30.7.2010 and submit compliance report to this Hon'ble Court.”

3] On this petition, this Court issued notice on 25th November 2014.

4] While issuing notice, this Court directed the petitioner to implead the Village Panchayat Kshetra Mahabaleshwar, Taluka- Mahabaleshwar, District Satara as a party respondent.

5] That has been impleaded. Notice was also issued to the added respondent.

6] In the order passed on 25th November 2014, this Court observed as under:

“1. We direct the Petitioner to implead Village Panchayat Skshetra Mahabaleshwar, Taluka- Mahabaleshar, District Satara as a party Respondent. Amendment to be carried out within a period of two weeks from today.

2. Issue notice to the added Respondent, returnable on 13th January 2015.

3. The grievance in this Petition is as regards the failure of the Respondents to implement the directions contained in the Government Circular dated 30th July 2010. We direct the third Respondent to nominate appropriate officer not below the rank of Sub- Divisional Officer to file a reply dealing with the grievances made in the Petition including the contention that no steps have been taken on the basis of the said Circular in relation to the properties claimed by the Petitioner.

3. Reply shall be filed within a period of one month from today.”

7] Thus, the petitioner's grievance is that a Circular issued by the Government has not been implemented.

8] A copy of this Circular is annexed to the petition. Based on this Circular, a copy of which is at page 117 to 119 of the paperbook, the argument of the petitioner is that certain action has to be taken. That action is in accordance with the steps and stages, which are mentioned in this very Circular.

9] Though this Circular is issued and in force from 30th July 2010, the action in terms thereof has not been taken, is the limited grievance.

10] After addition of the Gram Panchayat as a party respondent, the scope of this petition is enlarged. Now disputes as between Gram Panchayat and the petitioner, the Gram Panchayat and the Government and equally the intervenor, who has filed an intervention application against the petitioner, are projected.

11] This Court was concerned only with the limited issue and the prayer of the petitioner noted in para 9 above. At no stage there was any intent of resolving disputes particularly in relation to title of the immovable property. The petitioner has already instituted a suit against the Gram Panchayat and that is pending. All that the Government was called upon was to inform this Court whether the Circular would be implemented and within how much time.

12] Mr. Samant, learned AGP appearing for the State, after taking instructions from the concerned officials, makes a statement that the Government will endeavour to conclude the steps contemplated in this Circular, as expeditiously as possible and in any event within a period of

four months from today. We accept this statement as an undertaking to this court.

13] While we accept this statement and dispose of this petition, we clarify that our order and direction does not conclude the issue of right, title and interest in the immovable property sought to be claimed by the petitioner and which claim is resisted by the Village Panchayat. Equally, there is a claim of the intervenor that will also remain unaffected by this order.

14] Each one of them can assert their right, title and interest in the immovable property by approaching the competent Civil Court and the adjudication before that Court, if approached, will proceed uninfluenced by the order and direction in this petition. All contentions of all parties in relation to the right, title and interest in the immovable property/properties are kept open. The writ petition is disposed of so also the civil application.

15] Mr. Samant also states that the pending application before the State Government styled as revision application will also be disposed of within a period of three months from today. That statement is also accepted as an undertaking to this Court.

(SMT. BHARATI H. DANGRE, J.)

(S. C. DHARMADHIKARI, J.)