

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9166 OF 2014
(Hanmant Achyut Jadhav Vs. Bayadabai Bhaurao Waghmare and others)

Mr.A.A.Nimbalkar h/f Mr.R.L.Adhe, Advocate for the petitioner.
Mr.S.A.Nagarsoge, Advocate for respondent Nos. 1 to 5.
Mr.D.R.Adhav h/f Mr.A.G.Kanade, Advocate for respondent No.7.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 08/02/2019

PER COURT :

1. I have heard the learned Advocates for the respective sides at length.

2. On 06/08/2015, this Court (Coram : Sunil P.Deshmukh, J.) had passed the following order :-

“1. Despite service, nobody has put in appearance on behalf of respondents No. 1 to 6.

2. Looking at the subject-matter involved in writ petition, matter appears to be amenable to disposal at admission stage.

3. Issue notice to respondents No. 1 to 6 accordingly, returnable on 03-09-2015. Mr. Kanade, learned counsel waives service for

respondent No. 7. In case none appears on behalf of respondents No. 1 to 6, suitable orders would be passed.

4. Till returnable date, there shall be ad-interim relief in terms of prayer clause "C" on condition that petitioner deposits a sum of Rs. 10,000/- in this court within a period of two weeks from today.

5. In addition to court process, petitioner shall serve respondents No. 1 to 6 privately by any legally acceptable mode and file affidavit along with tangible proof of service by returnable date. In case of failure to serve the respondents privately and file affidavit to that effect by next date, ad-interim relief as has been granted would cease to operate.

6. Parties to act upon authenticated copy of this order."

3. Consequent to the above, the petitioner has not paid a single penny to the respondent widow and the LR's for a period of 3 years and 6 months.

4. I find that the petitioner is a permanent employee of a college and was earning Rs.23,300/- on the date of the passing of the impugned order. It is now stated that his salary has slightly

increased and he is now earning Rs.6,000/- p.m. after paying Rs.10,000/- to the decree holder.

5. At this juncture, the learned Advocate for the petitioner submits on instructions that an amount of Rs.1,98,037/-, besides Rs.10,000/- deposited in this Court, is payable to the respondents. It is pointed out by the respondents that the Trial Court has granted interest @ 7½ percent from 2003. Calculations have been made in the darkhast on 14/02/2012 indicating the outstanding amount of 2,83,037.50 as in September 2011. This Court had passed an order on 06/08/2015. He, therefore submits that besides the amount deposited in this Court, the petitioner should pay at least 2,75,000/- inclusive of interest within a time frame.

6. Learned Advocate for the petitioner makes a statement on instructions that he would arrange to pay Rs.2,00,000/- to respondent No.1 widow by depositing the said amount in the Executing Court on or before 15/04/2019. No extension of time would be sought. The further amount of Rs.75,000/- would be deposited in the Executing Court on or before 10/06/2019.

7. As such, the above statements are recorded as statements

made to this Court. Learned Advocate for the original claimants submits that the said amount of Rs.2,75,000/- would be apportioned between the parties in accordance with the directions of the M.A.C.T. vide judgment dated 21/12/2006 delivered in MACP No.148/2003. This would satisfy the decree.

8. With the above understanding, this petition is disposed off in the said terms. Over and above the said amounts, the registry shall transmit the amount of Rs.10,000/- alongwith interest accrued thereon, from this Court to the Executing Court.

9. In the event, the said amount to be deposited by the petitioner suffers a default, the said conduct shall amount to disobedience of the order of this Court and the Executing Court would also be at liberty to independently pass appropriate order.

(Ravindra V.Ghuge, J.)