

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.12802 OF 2018

Rekha Atul Jadhav	...Petitioner
Versus	
The State of Maharashtra and Ors.	...Respondents

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Mr. G.T. Kanchanpurkar with Ms Priya Patil for the Petitioner.
Mr. A.B. Kadam, AGP for the Respondent Nos.1 to 3.
Mr. Shriram Chaudhari i/b. Mr. N.V. Gaikwad for the Respondent
Nos.5 to 12.
Mr. Deepak S. Kokare, Circle Officer, Yavat present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 11th JANUARY, 2019.

P.C.:-

The Petitioner herein has challenged the order dated 16.10.2018 passed by the Respondent No.2 in Dispute Application No.1189 of 2018.

2. The main ground of challenge is that the Petitioner was not served with the notice of hearing. The learned counsel for the Petitioner submits that the Petitioner had appeared before the Respondent No.2 as she had learnt about filing of the application through one of the villagers. She submits that the Petitioner had sought time despite which the Respondent No.2 has disposed of

dispute application by observing that the Petitioner was heard in the matter.

3. The impugned order states that the Petitioner as well as the Respondent Nos.5 to 12 and their respective counsels were heard in the matter. The learned AGP upon taking instructions from the Circle Officer, Yavat, and upon perusal of the record has submitted that the Petitioner as well as the Respondent Nos.5 to 12 had appeared before the Respondent No.2 and that both the parties had sought time. He concedes that the counsel for the Petitioner was not present and no submissions were advanced on behalf of the Petitioner.

4. It is thus, evident that the statement in the impugned order that the Petitioner and her counsel were heard in the matter is incorrect. The impugned order is passed without hearing the Petitioner. The order is in breach of principles of natural justice and hence cannot be sustained.

5. Under the circumstances, the impugned order is quashed and set aside. The Respondent No.2 is directed to decide the application afresh after hearing the concerned parties. The Petitioner

as well as the Respondent Nos.5 to 12 are directed to appear before the Respondent No.2 on 22.1.2019. The Respondent No.2 to decide the Dispute Application as expeditiously as possible and in any event within a period of one month from the date of the appearance of the parties. The Petitioner as well as the Respondent Nos.5 to 12 to cooperate and not to delay hearing of the Dispute Application No.1189 of 2018.

6. The Writ Petition stands disposed of.
7. All concerned to act on authenticated copy of this order.

(SMT. ANUJA PRABHUDESSAI, J.)