

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5696 OF 2018

PANDHARI BABARAO NILEWAD
VERSUS
SUB DIVISIONAL OFFICER KANDHAR AND OTHERS

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Advocate for Petitioners : Shri Deshmukh Y.P.
Advocate for Respondent 1 : Shri Dhongade A.B.
AGP for Respondent 2 : Shri Munde S.W.
Advocate for Respondent 3 : Shri Patil Milind M. (Beedkar)
and Shri Deshmukh A.G.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: February 18, 2020

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PER COURT :-

1. On 13.6.2018, this Court had passed the following order:-

"1. Learned advocate for the petitioner submits that the order impugned in present writ petition is absolutely a non speaking order and does not show application of mind to the facts and circumstances pleaded and placed on record on behalf of the petitioner and simply makes a short work of the application stating that the applicants have not been able to show that the applicants are owners of the land abutting the road. He further submits that on technical ground the objection has been rejected.

2. Issue notice to respondents, returnable on 11 th July, 2018. Learned AGP waives service for respondents No. 1 and 2.

3. Till the returnable date, disbursal of the amount of land

compensation be kept in abeyance.

4. Learned AGP to immediately communicate this development to the concerned.

5. In addition to court process, petitioner to serve respondent No. 3 privately by any legally admissible mode and to file an affidavit with tangible proof of actual service. In case of failure to serve the respondent privately and to file service affidavit stating that the respondent is served or not, the ad interim relief would cease to operate without further reference to the court.”

2. I have considered the impugned order dated 23.6.2018 in the light of the submissions of the learned Advocates and the learned AGP for the respective sides. I have no hesitation in concluding that the SDO, who is the competent authority, has not applied his mind to the pleadings of the parties, the record available and the submissions of the learned Advocates while passing a practically telegraphic order. The conclusions drawn are not supported by any reasons, much less, a discussion on the pleadings and averments of the parties.

3. In view of the above, this petition is allowed. The impugned order dated 23.4.2018 is quashed and set aside and the proceeding bearing No. २०१६/उविअ/भूसं/रामं३६१/सीआर stands remitted to the

office of respondent No.1.

4. The litigating parties shall appear before respondent No.1 on 7.3.2020. They are at liberty to enter written notes of submissions along with case law and address respondent No.1. This exercise would be concluded on 9.3.2020 and respondent no.1 shall deliver a reasoned order on 31.3.2020 at 3.00 pm. All the litigating parties are obliged to remain present to note the pronouncement of the order and collect copies of the order, which would be kept ready, subject to payment of requisite fees.

5. In the event respondent no.1 finds that disbursement of a particular quantum of money is undisputed, he would be at liberty to disburse the undisputed amount, only.

(RAVINDRA V. GHUGE, J.)

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