

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Writ Petition No. 2843 of 2020

Madhukar Pandurang Gohane & others Vs. Chhabi Rajkumar Bhoyar & others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : MANISH PITALE, J.

DATED : NOVEMBER 03, 2020

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. In the morning, when this petition was called out for hearing none appeared and hence it was passed over. In the post lunch session when the petition was called out, again none has appeared on behalf of the petitioners.

3. This Court has perused the Writ Petition and the documents filed therewith. The petitioners are seeking a direction to the Appellate Court i.e. the Court of District Judge – 1, Warora District Chandrapur to decide application for stay filed along with an appeal filed by the petitioners.

4. The petitioners have filed the appeal to challenge

judgment and order dated 30/10/2018, passed by the Trial Court. The documents also show that the appeal itself was filed by the petitioners on 12/12/2018 itself along with the application for stay. The decree passed by the Trial Court was a suit for partition and it stood partly decreed. The petitioners claimed that in the absence of an interim order from the Appellate Court the matter has proceeded further and now there is grave urgency in the matter, since the execution proceedings have continued and the Land Records Department has issued notices for measurement of land for the purpose of execution of the decree, between 02/11/2020 and 10/11/2020. It is contended in the Writ Petition that the petitioners are, therefore, constrained to rush to this Court to invoke writ jurisdiction.

5. A perusal of the statements made in the Writ Petition do not provide any explanation as to what were the petitioners doing from the time that they filed the appeal along with the application for stay before the Appellate Court on 12/12/2018. There is also no statement as to the efforts made by the petitioners in the recent past for having the appeal along with the application for stay being listed for appropriate orders before the Appellate Court. In this backdrop, this Court refuses to entertain the present writ petition, as the petitioners can very well approach the Appellate Court in the pending appeal for appropriate directions / orders. The petitioners cannot be heard to blame the Appellate Court, without demonstrating any efforts made by the petitioners before the Appellate Court for listing the appeal along with application for stay for urgent orders.

6. Hence, the Writ Petition is dismissed.

7. Needless to say, the petitioners are at liberty to approach the Appellate Court for appropriate orders. If the petitioners do so, the Appellate Court shall proceed in accordance with law.

JUDGE

MP Deshpande