

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

902 WRIT PETITION NO.2268 OF 2020
WITH CA/5801/2021 IN WP/2268/2020
WITH CA/5802/2021 IN WP/2268/2020
WITH CA/5803/2021 IN WP/2268/2020

UDDHAV TRIMBAK JOSHI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Dr. Tawshikar Swapnil D.
AGP for Respondent No.1-State : Mr. S. G. Sangle.
Advocate for Respondent No.3 : Mr. Patil Vikramsinh P.
Advocate for Respondent Nos.4 & 5 : Mr. Wagh Umakant U.

...

CORAM : RAVINDRA V. GHUGE, AND
S. G. MEHARE, JJ.

DATE : 07.07.2021

PER COURT :-

1. On 21.06.2021, we had passed the following order :

“ 1. Notice issued earlier on 05/02/2020, has been served on the contesting respondent Nos.3, 4 and 5. Thereafter, as they did not cause an appearance in this Court and rendered no assistance to this Court, a further order dated 04/03/2021 was passed issuing notice for final disposal to respondent Nos.2 to 5. The said notice has been served and yet no appearance has been entered. This Court has observed in paragraph Nos.3 and 4 of it's order dated 04/03/2021, as under :

*“3. Re-issue notice of final disposal to respondent Nos.2 to 5, returnable on 22.04.2021.
Hamdast allowed.*

4. If, in spite of service of notice, none appears for respondent Nos.2 to 5, the Court would be constrained to issue warrant against them.”

2. We need the assistance of respondent Nos.2 to 5 since we are considering this petition, in view of the order of this Court dated 05/02/2020, only to the extent of the non-supply of the documents to the petitioner. Without the assistance of these respondents, the process of dispensing justice has been obstructed.

3. As such, issue aailable warrant to respondent Nos.3, 4 and 5 in the sum of Rs.15,000/- (Rs.Fifteen Thousand) each, returnable on 05/07/2021.”

2. It is obvious from the order reproduced above that as respondent Nos.3, 4 and 5 were not extending their co-operation to the Court for dispensing justice, we were constrained to ensure their presence by issuance of aailable warrant.

3. Mr. Sandeep Haribhau Badakh - Village Deveopment Officer has filed a Civil Application No.5801 of 2021 stating reasons for his non-appearance in the Court. Smt. Pushpabai Vitthal Chitalkar - Sarpanch of Village Mandave, Post Fattyabad, Taluka Shrirampur, District Ahmednagar has also filed a Civil Application No.5802 of 2021. So also, Mr. Sanjay Revaji Dighe - Block Develpment Officer, Panchayat Samiti, Shrirampur has also filed a Civil Application No.5803 of 2021.

All these persons who are respondent Nos.3 to 5, have tendered an unconditional apology for ignoring the notice of this Court and failing to appear in time. With this apology and by citing the Covid-2019 pandemic, which appears to us to be a fashion these days in putting forth a ground in such circumstances, they have prayed that the order dated 21.06.2021 may be recalled.

4. We have considered the contents of the applications filed by these three persons and have perused the earlier orders of this Court including the order dated 04.03.2021 preempting these respondents that the Court would have to issue a warrant against them. We were compelled to pass the order dated 21.06.2021 on account of the apathy shown by these respondents towards the court proceedings. However, considering that they have tendered an unconditional apology with an assurance that they would never act in such fashion any time in future, we are recalling the order dated 21.06.2021 by partly allowing these three Civil Applications, by directing these three respondents to deposit Rs.5,000/- (Rupees Five Thousand Only) each, as costs. This amount shall be transferred to the Advocate Associations' Bar Library, High

Court, Aurangabad. The amount shall be deposited on or before 31.07.2021, failing which, this Court would initiate an appropriate action against the defaulting respondents.

5. By the first order of this Court dated 05.02.2020, this Court had made it expressly clear that this petition would be entertained only to the extent of the refusal of respondent No.4 in supplying a certified copy of Resolution No.11 passed in the monthly meeting of the Gram Panchayat on 31.10.2018, which finds reference in the Form No.8, under Rule 32(1), at page No.13, Annexure 'C' to the petition.

6. The grievance of the petitioner is that, with the passing of the resolution, the Gram Panchayat has reduced the dimensions and the size of the cattle shed of the petitioner who is a senior citizen, without hearing him.

7. We do not find that the grievance of the petitioner would now subsist in view of the affidavit filed by Mr. Sandeep Haribhau Badakh - the Village Development Officer of Village Mandave, Taluka Shrirampur. In Paragraph No.2 of his affidavit-in-reply, dated 06.07.2021, he clearly states that entry on Form No.8 showing cancellation of the cow shed / cattle

shed of the petitioner was taken on the basis of the Gram Panchayat Resolution No.11, dated 31.10.2018. In paragraph No.3, it is categorically submitted as under :

"3. I say and submit that, contention raised regarding cancellation of entry of shed adm.225 Sq.Ft. (15x15) Form No.8 of house property No.27/01 is restored and it was never cancel. Considering all these things there is no merit in the writ petition and same needs to be dismissed."

8. Mr. Wagh, the learned advocate submits, on instructions from Mr. Sandeep Haribhau Badakh that as Resolution No.11 has been cancelled and all revenue entries taken post Resolution No.11, have been restored to their original position, the grievance of the petitioner stands redressed. Dr. Tawshikar, the learned advocate for the petitioner submits that in the light of the affidavit and the said statement, he is not required to approach the Civil Court as the legal injury caused to him by Resolution No.11 no longer subsists. He, therefore, prays that this petition may be disposed off.

9. In view of the above, this petition stands disposed off.

10. We, however, considering the age of the petitioner, direct respondent No.4 that if the petitioner applies for certified copies of the corrected revenue records, respondent No.4 or

any authority in charge of such records shall supply such certified copies to the petitioner within ten (10) days from the receipt of such application.

11. In view of the above circumstances, pending Civil Applications stand disposed off.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

...

vmk/-