

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13819 OF 2018
WITH CA/2276/2020 IN WP/13819/2018 WITH CA/3422/2019 IN
WP/13819/2018

LAXMANRAO MANIKRAO BHOSLE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mrs.M.A.Deshpande, AGP for respondent Nos. 1 to 6.
Mr.R.N.Chavan h/f Mr.S.V. Kurundkar, Advocate for the applicant in CA
No.3422/2019.

(CORAM : RAVINDRA V. GHUGE &
S.G. MEHARE, JJ)

DATE : DECEMBER 16, 2021

PER COURT :

1. On 13/12/2021, we had passed the following order :-

"1. Shri Adkine, the learned Advocate has conveyed to the learned AGP that the petitioner desires to withdraw this petition. However, when the matter was called out, neither Mr.Adkine nor the learned Advocate for the petitioner Mr.Dinkar Kamble were present. Even after flashing the name on the display board and upon granting a pass-over, none has appeared.

2. In view of the above, we are listing this petition on 16.12.2021, for passing orders, either of withdrawal or of dismissal."

2. The learned Advocate for the petitioner submits on instructions that as there are several lacunas and deficiencies in the pleadings of the petition, the petitioner desires to withdraw this petition with liberty to file an appropriately drafted petition. No new cause of action is sought to be introduced in the fresh petition. It is further stated that as the amendment would be too large, it would be appropriate for the petitioner to withdraw the petition and file a fresh petition in the same cause.

3. Considering that the request of the petitioner would be hit by Order XXIII Rule 1 of the CPC, we do not find that his case would fall under Rule 1[3(b)].

4. Having perused the petition and upon hearing the learned Advocate for the petitioner, we find that one representation dated 06/02/2018 seeking return of a portion of a land, which was already acquired for extension of Gavthan, is pending before the District Collector, Nanded. The learned Advocate for the petitioner submits that the said representation may be decided, if not already decided, within a time frame.

5. In view of the above, this petition is disposed off. Respondent No.3 / District Collector, Nanded would decide the representation dated 06/02/2018 on its own merits, on or before 28/02/2022. If the procedure requires an opportunity of hearing, the District Collector would serve a notice on the petitioner and after affording an opportunity of hearing, would pass the order on the merits of the representation.

6. We make it clear that we have not expressed any opinion on the grievance voiced by the petitioner.

7. Pending civil application would not survive and stands disposed off.

(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)