

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3100 OF 2020
AND WP/3106/2020

SAGAR LABOUR CO-OPERATIVE SOCIETY LTD. BHADLI THROUGH
IT'S CHAIRMAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.R.M.Deshmukh, Advocate for the petitioner.
Mr.S.R.Yadav, AGP for respondent Nos. 1 to 3.

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

DATE : JULY 29, 2021

PER COURT :

1. While issuing notice in this matter, this Court (Coram : S.V.Gangapurwala and S.D.Kulkarni, JJ.) had passed the following order on 24/02/2020 :-

“1. It is only if the respondents do not dispute their liability to make payment, then we will entertain the petition. If the respondents dispute the liability to make payment or quantum of the amount to be paid to the petitioners, then the petitioners will have to avail alternate remedy.

2. Issue notice to the respondents. Learned AGP waives notice for all the respondents and seeks time.

3. *Stand over to 30.03.2020.”*

2. It is undisputed that the petitioner did not assail the above stated order before the Hon’ble Apex Court and proceeded with the matter in view of the conclusion of this Court that this petition would be entertained only if the respondents do not dispute their liability to make the payment to the petitioner society as is averred in the petition paper book.

3. The petitioner has put forth prayer clause B & C, which read as under :-

“B. Record and proceeding in respect of construction work of Percolation Tank in various villages in Jalna District done by the petitioner’s society as per the scheme of respondent No.1 may kindly be called.

C. Respondent No.2 may kindly be directed to pay total amount of bills of Rs.1,64,42,307.86 in respect of construction work of Percolation done by the petitioner’s society at various villages in Jalna District as per the scheme of the respondent No.1 alongwith interest @ 18% per annum from the date of work completed till the realization of amount.”

4. The learned AGP has placed on record an affidavit in reply dated 27/07/2021 filed by Shri Sunder Sonaji Wagh, Sub Divisional Water

Conservation Officer, Soil and Water Conservation Sub Division at Jalna, copy of which has been served upon the petitioner in advance. By the said affidavit, the learned AGP points out that the affiant has not only disputed the claims put forth by the petitioner, but has specifically set out in the pleadings in the affidavit in reply that forged bills have been prepared by the petitioner and even the work orders have been forged.

5. The learned Advocate for the petitioner submits that if some time is granted, it would place further documents on record. We are not inclined to grant the said request for reasons more than one. Firstly, the petitioner was expected to rely upon all documents at its disposal while setting forth its claim. Secondly, this Court has already concluded that disputed questions cannot be entertained in our extra ordinary jurisdiction and that, if the respondents dispute the liability to make the payment, this Court would not entertain the petition as the petitioner has a statutory remedy available.

6. In view of the above, this petition is disposed off. The statutory remedy available to the petitioner to prefer a recovery suit, can be

availed by it. The time spent by the petitioner in this Court from 15/02/2020 till the passing of this order shall be a good ground for condonation of delay.

7. We make it clear that all the contentions of the respective parties are left open to be considered by the Civil Court including the contention of respondent Nos. 2 and 3 that the petitioners have forged the bills and the work orders.

(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)