

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

912 CIVIL APPLICATION NO.5358 OF 2021
IN WP/982/2021
WITH
WP/982/2021

SHAIKH RAHIM SHAIKH RAZZAK AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Applicants : Mr.Ambad Shrinivas A.
AGP for Respondents No. 1 & 2 -State : Mr. R.B.Bagul
Advocate for Respondent No. 3 : Mr.S.V. Adwant
Advocate for Respondents No. 4 to 8 : Mr.S.N. Kumthekar
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CORAM : SANDEEP K. SHINDE , J.

Date :- 23rd June, 2021.

P. C. :

1. Heard Mr. Ambad, learned counsel for the petitioners, learned AGP for the respondents No. 1 & 2-State, Mr. S.V. Adwant, learned counsel for respondent No. 3 and Mr.S.N. Kumthekar, learned counsel for respondents No. 4 to 8.

2. Petitioners are the counselors of Ambejogai Municipal Counsel, They represented the Collector, that the respondent No. 3, a family member of the Ex-President in collusion with officials of Council, caused unauthorized and illegal changes, concerning the sanction of layout of land Survey No. 358 and 359. The Collector, Beed on 16.09.2020 passed an order causing serious prejudice to the interest of

respondent No. 3, in the land Survey No. 358 and 359.

3. Admittedly, order dated 16th September, 2020 was passed without hearing to the respondent No. 3.

4. Aggrieved by the order of the Collector, the respondent No. 3 preferred a revision petition before the Hon'ble Minister, Urban Development, Maharashtra State, Mantralaya, Mumbai. Hon. Minister, vide order dated 12th November, 2020, stayed the operation and implementation of the order dated 16.09.2020 passed by the Collector, Beed. This order is impugned in the instant petition.

5. It is the petitioner's grievance that, the Minister had passed the impugned order without hearing them, though they had filed a caveat and further the revision petition was not maintainable against the order of Collector, Beed.

6. Indisputably, executable order dated 16.09.2020 was passed against the respondent No. 3, without hearing him. As this order has not been stayed by the Hon'ble Minister, would have affected respondents' rights in the property Survey No. 358 and 359 and the construction made thereon. In the circumstances, the order dated 16.09.2020 passed by by the Collector, Beed is set aside.

7. In consideration of the facts of the case, the ends of justice would meet, if the representation of the petitioners making the grievance concerning unauthorized changes in the layout of Survey Nos. 358 and 359, is decided by the Collector, Beed, after hearing the respondent No. 3 and the persons interested therein, in accordance with law.

8. In the circumstances, the Collector, Beed, shall decide the representations/complaints, of the petitioners preferably within six months from today, in accordance with law and without being influenced by order of this Court. The petition and all applications therein are disposed of in aforesaid terms.

(SANDEEP K. SHINDE)
JUDGE

mahajansb/