

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.1882 OF 2022
IN
PUBLIC INTEREST LITIGATION NO.68 OF 2019

SHAIKH AFSAR SHAIKH YASIN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.J.M.Murkute, Advocate for the applicant.
Mr.S.G.Sangle, AGP for respondent Nos. 2 and 3.
Mr.A.T.Jadhavar, Advocate for respondent No.8.
Mr.Nisargraj Garje h/f Mr.V.D.Salunke, Advocate for respondent No.20.

(CORAM : RAVINDRA V. GHUGE AND
ARUN R. PEDNEKER, JJ.)

DATE : SEPTEMBER 20, 2022

PER COURT :

1. We have considered the submissions of the learned Advocates for the respective sides and the learned AGP. For the reasons set out in the application and on the consent of the non applicants, this civil application is allowed in terms of prayer clause 'B', which reads as under :-

"B. The leave to correct and leave to amend may kindly be granted to the applicant, the legal heir of respondent No.14 is already on record as respondent No.13, he may be treated as legal heir of respondent No.14,

and the middle name of respondent No.17 as Girish Raosaheb Jagtap instead of Girish Tulshiram Jagtap may kindly be allowed to corrected, as stated in title clause of this civil application, and after amendment fresh notice may kindly be issued to respondent No.17.”

2. The above directions shall be complied with within 2 weeks' from today.

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3. The learned Advocate for the petitioner / applicant draws our attention to the order dated 13.03.2020. He submits that Shri A.T.A.K.Shaikh, Retired District Judge was appointed as an independent 3rd party in the light of paragraph Nos. 4 to 9 of the order, which read as under :-

“4. In view of the above, we are of the opinion that it would be in the fitness of things to seek a report from an independent third party. Accordingly, We direct the Registry to seek willingness from a third party i.e. Shri A.T.A.K. Shaikh, District Judge (Retd.), who would submit a report to this Court by visiting the place namely, Survey No.918 at village Ashti, Tq.Ashti, Dist. Beed.

5. Certain document is placed on record at Exh.'A' under the caption of “Development Plan of Ashti, Dist. Beed (Plan A)” and it refers to a part plan of Survey No.920 and surrounding area. Shri Shaikh may also consider, as to whether survey No.920 would be relevant for the purpose of submitting report to this Court and in case, such opinion is

formed, the same may be referred to in the report to be submitted to this Court.

6. We direct respondent No.20 – Chief Officer, Ashti Nagar Panchayat, to provide all necessary assistance to Shri Shaikh, including services of an Officer, who is conversant with the measurement activities and having authority to provide necessary record for perusal of Shri. Shaikh.

7. We direct respondent Nos. 7 to 19 to deposit an amount of Rs.15,000/- (Rupees Fifteen Thousand) jointly in this Court before the next date of hearing.

8. We also direct respondent No.20 – Chief Officer to deposit an amount of Rs.10,000/- (Rupees Ten Thousand) in this Court within a period one week from today. Respondent No.20 is further directed to provide a vehicle to Shri Shaikh, District Judge (Retd.), for journey from Aurangabad to Ashti and back to Aurangabad, for the purpose of visit to survey no.918, situate at Ashti, Dist.Beed.

9. As soon as Shri Shaikh submits his willingness to the Registry of this Court, the petitioner shall provide a copy of the petition and respondent No.20 shall provide a copy of the reply, to Shri Shaikh.”

4. It is informed that, the said order could not be complied with as the Covid-19 pandemic led to a National lock down from 24.03.2020. Shri Shaikh has already expressed his willingness. Respondent No.20 has deposited the money.

5. The learned Advocate submits that respondent Nos. 7 to 19 would be depositing the amount of Rs.15,000/- in this Court within 2 weeks from today.

6. The Registry of this Court shall provide a copy of this petition alongwith all replies and annexures, if not already tendered, to Shri Shaikh. In the event, Shri Shaikh has a change of thought as regards his willingness, he is at liberty to express the same. If there is no change, he would proceed to abide by the order of this Court and respondent No.20 shall ensure that a vehicle is provided to Shri Shaikh for undertaking the journey from Aurangabad to Ashti for the purpose of visiting Survey No.918 situated at Ashti, Dist. Beed and for the return journey. The Chief Officer, respondent No.2 would ensure adequate safety and protection to Shri Shaikh when he undertakes this task.

7. List this PIL on 14.10.2022 at 4.30 p.m.

(ARUN R. PEDNEKER, J.)

(RAVINDRA V. GHUGE, J.)