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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

922 WRIT PETITION NO.5826 OF 2022

**CHABURAO MANJABAPU FUNDE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA, THROUGH ADDITIONAL
COLLECTOR AND OTHERS**

....

Mr S. R. Andhale, Advocate for petitioners;
Mr A. R. Kale, A.G.P. for respondent Nos.1 to 4
Mr C. V. Dharurkar, Advocate for respondent No.5

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

DATE : 23rd September, 2022

PER COURT:

1. This Court had passed an order on 07/06/2022, which reads as under :-

1. Mr. A.R. Kale, learned AGP waives notice for respondent Nos. 1 to 4. Issue notice upon respondent Nos. 5 to 8 returnable on 30th June 2022. Hamdast is permitted insofar as respondent Nos. 5 to 8 are concerned.

2. Appeal along with the stay application filed by the petitioners against the order of Tahsildar is pending before the Sub Divisional Officer since 13th May 2022. In the meanwhile, the Tahsildar has issued notice for the execution of the order. The Sub Divisional Officer has not fixed any date for hearing of the appeal along with the stay application filed by the petitioners.

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3. *The petitioner apprehends that if the impugned order which is subject matter of the appeal is executed, nothing will survive in the appeal and stay application filed by the petitioners. By the impugned order which is subject matter of the said appeal, the Tahsildar has provided new cart way from the land of the petitioners. If the impugned order is allowed to be executed during the pendency of the said appeal, the rights of the petitioners would be seriously prejudiced.*

4. *Respondent Nos. 1 to 4 are accordingly directed not to execute the impugned order which is subject matter of the appeal filed before the Sub Divisional Officer till the next date.*

5. *The learned AGP to make statement as to when the said appeal along with the stay application preferred by the petitioners is decided by the Sub Divisional Officer on the next date.*

6. *The petitioner is directed to convey this order to respondent Nos. 5 to 8. The learned AGP is directed to communicate this order within three days from today to respondent Nos. 1 to 4 for information. Telephonic instructions can be also issued by the learned AGP to respondent Nos. 1 to 4 during the course of the day.*

Parties to act on authenticated copy of this order.”

2. The learned A.G.P. submits on instructions that, respondent No.2 – Sub Divisional Officer, Pathardi Division, Pathardi, would decide the pending appeal preferred by the petitioners against the

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order dated 05/05/2022, passed by the Tahsildar in Rasta Case No.281/2022, on or before 21/10/2022.

3. In view of the above, this petition is disposed off.

4. The ad interim order passed by this Court on 07/06/2022, would continue to operate until the appeal is decided. All the contentions of the litigating parties are kept open and all would be granted an adequate opportunity of hearing in this matter.

(ARUN R. PEDNEKER, J.)

(RAVINDRA V. GHUGE, J.)

sjk