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50wp8326.23

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

50 WRIT PETITION NO. 8326 OF 2023

MADAN CHATURSINGH RATHOD

....Petitioner

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

.....Respondents

Mr. S. S. Deshmukh, Advocate for the petitioner
Mr. P. D. Patil, AGP for the respondents/State
Adv. P. G. Sontakke, for the respondent No.6

CORAM : KISHORE C. SANT, J.

DATE : 10th DECEMBER, 2024

P. C.

1. Heard the parties.
2. The petition is against the order passed by the learned Minister, State Excise dated 19-06-2023, whereby the learned Minister has quashed and set aside the order passed by the learned Collector, Jalna dated 18-01-2022 and the order passed by the learned Commissioner, State Excise dated 24-03-2022. The learned Collector is directed to verify license by

giving hearing to all the parties.

3. It is the case of the petitioner that issue in fact is finally decided by the Chief Executive Officer, Nagar Panchayat Mantha. He submits that the petitioner was running the business in the property No.1194 which is renumbered as 921/6. Whereas respondent No.6 has wrongly informed the authorities that business is being run from the property No.1194/1 which in fact is different property.

4. The learned advocate for the petitioner thus prayed for setting aside the order passed by the learned Minister as no fresh enquiry is necessary. He repeatedly asserts that such business is being run from the property 921/1.

5. The learned advocate for the respondent No.6 however, submits that in the application dated 30-03-2017, it is the petitioner who himself had given address of the property as 1994/1/1. She thus submits that it is therefore necessary to

properly verify the properties and supports the order of the learned Minister.

6. The learned AGP also supports the order passed by the learned Minister.

7. Considering the narrow scope of the petition this court finds that the learned Minister has considered that there are two distinct claims filed by the petitioner and respondent No.6 and it is therefore, necessary to ascertain and verify as to exactly from which premises the business is being run.

8. Though the submissions are made by the petitioner that the Collector is not the proper authority to decide this and there is civil suit pending in respect of the property, this court finds that this court cannot go into such question in the present petition. This court is satisfied that before the learned Minister the case is made out for remand of the matter. For this reasons this court finds that no case is made out calling for interference

at the hands of this court. The petition, therefore, deserves to be dismissed. It is expected of the learned Collector, Jalna to take decision within three months from today and to pass fresh order by giving sufficient opportunity to all the parties. For the said period interim relief already passed by this court on 24-07-2023 to continue.

10. Needless to say that the observations made in this order shall not come in the way while deciding the proceeding before the Collector.

[KISHORE C. SANT, J.]

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