



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

WRIT PETITION NO. 9966 OF 2023

1. Vithal Sandu Chinchole,
Age 56 years,

2. Vishnu Ramchandra Chinchole,
Age 50 years,

Both Occu. Agriculture and
R/o. Pimpalgaon Sutar, Tq. Bhokardan,
District Jalna

.. Petitioners

Versus

1. The State of Maharashtra
Through its Collector, Jalna

2. The Sub-Divisional Officer Bhokardan

3. The Tehsildar, Bhokardan

4. The Circle Officer Rajur

5. Rameshwar Balwantrao Chinchole,
Age 42 years, Occu. Agriculture

6. Gajanan Balwantrao Chinchole,
Age 38 years, Occu. Agriculture

7. Ramesh Ramchandra Chinchole,
Age 42 years, Occu. Agriculture,

8. Sominath Sandu Chinchole,
Age 51 years, Occu. Agriculture,

Respondent No.5 to 8 R/o.
Pimpalgaon Sutar, Tq. Bhokardan,
District Jalna

.. Respondents

Mr. Uttreshwar M. Maske Patil, Advocate for Petitioners;
Mr. A. S. Shinde, A.G.P. for Respondents No.1 to 4;
Mr. D. R. Adhav, Advocate holding for Mr. Nitin S. Ingale, Advocate
for Respondents No.5 and 6

CORAM : S. G. MEHARE, J.

DATE : 25-01-2024

PER COURT :-

1. Heard learned counsel for the petitioners, learned A.G.P. for respondents No.1 to 4 and learned counsel for respondents No.5 and 6.

2. The learned counsel for respondents No.5 and 6 submits that the appeal against the order of Mamlatdar, which is in favour of respondents No.5 and 6 is pending before respondent No.2/Sub-Divisional Officer. The application for a stay to the order of Mamlatdar is pending. Since there was no stay, respondent No.3/Tahsildar issued a notice to the petitioner for execution of the order through respondent No.4/circle officer. The petitioners impugned that notice and secured the stay. The contention of the learned counsel for respondents No.5 and 6 is that instead of pressing for a stay before respondent No.2/S.D.O., the petitioners directly approached this Court. The petitioners ought to have requested the S.D.O. to pass the order on the stay application. He further argued that respondent No.3/the Tahsildar had correctly proceeded with the execution of the order. He stated that the petition may be allowed by directing respondent No.2/S.D.O. to decide the revision within three months by granting a stay to the order of the Mamlatdar.

3. Learned counsel for the petitioners also states that the petition be allowed in terms of prayer clause 'C'. Prayer clause 'C' is about the stay to the order of Tahsildar against which the revision is pending. The petitioners did not pray for a stay before the S.D.O. in revision. However, the learned counsel for the petitioners states that the stay application was pressed, but the officer was not available.

4. As against this, the learned counsel for respondents No.5 and 6, showing the Roznama, argued that the petitioners were absent. The roznama shows that on two occasions, the officer was absent. Hence, it could not be said that the petitioners did not pursue the stay application.

5. It is surprising to know the petitioner has secured the stay to the order of Tahsildar against which the revision is pending. Such a practice is to be deprecated. However, the petitioners produced a stay order of this Court passed in the Writ petition before the S.D.O. The S.D.O., without application of mind, during the operation of the stay order of this Court, has passed the order of *status quo*. It clearly indicates that the S.D.O., without applying mind to the stay application, unnecessarily kept the application pending. However, to find out the solution without admitting the prayer of the petitioners, the writ petition is disposed of by

directing the S.D.O. to take an immediate decision on the stay application within a week from today and, if possible, decide the revision on merit, without fail.

6. In the above terms, the writ petition stands disposed of.

(S. G. MEHARE)
JUDGE

rrd