



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

961 WRIT PETITION NO. 14569 OF 2023

SHANKAR SHRIPAT SURYAWANSHI
VERSUS
UMESH SHANKAR SURYAWANSHI AND OTHERS

...
Advocate for the Petitioner : Mr. Sapkale Sumeet Anand
AGP for Respondents/State : Mr. K.S. Patil
Advocate for Respondent Nos. 1 & 2 : Mrs. Gaikwad Sarita V.
...

CORAM : KISHORE C. SANT, J.

DATE : 3rd SEPTEMBER, 2024.

PER COURT :

1. At the outset, the learned Advocate for the petitioner prays for leave to add the learned SDO/Tribunal as party respondent.
2. Leave granted. Amendment be carried out forthwith.
3. Issue notice to the respondents. The learned AGP waives service of notice for respondent Nos. 3, 4 and 5. Heard the petition for final disposal by consent of the parties.

4. A senior citizen has approached this Court challenging the order passed by the Senior Citizen Maintenance Tribunal, Jalgaon.

5. His application as well as appeal also came to be disposed off by the learned Additional Collector, Jalgaon. In short, it is the case of the petitioner that he filed a proceeding before the learned SDO, Jalgaon. The learned SDO, Jalgaon on 22.07.2021 reserved the matter for orders on merits. It is stated that no orders were passed thereafter for considerable long period. The petitioner was shocked to know that on 18.04.2022 the learned SDO/Tribunal disposed of the application on the basis of some other application given on stamp paper. The petitioner approached the appellate authority submitting that he has never made any application for withdrawal of his application before the Tribunal. He has never executed any agreement as stated in the order passed by the learned SDO. The learned SDO however, observed that the proceeding has now been withdrawn and the same cannot be re-opened.

6. The petitioner being aggrieved, approached the

Collector. However, Collector did not entertained appeal stating that the application is voluntarily withdrawn and therefore, no appeal would be maintained.

7. The petitioner is before this Court today. He has never executed any agreement nor made any application to the learned SDO after reserving the proceedings for orders on 22.07.2021. After collecting papers from the office, on one stamp paper, an application is typed bearing date 11.11.2021 wherein it is stated that the sons of petitioner are taking utmost care of him. He again attended the office of the learned SDO and submitted that due to old age his care cannot be taken properly by them. The petitioner submits that he has not filed any such application, nor he has made any request to close the proceedings.

8. Learned Advocate for the respondents submits that the order is rightly passed by the learned authority. The petitioner has now withdrawn the proceeding before the learned SDO.

9. Once the proceeding is disposed off as withdrawn, there is no question to file another application before the appellate authority. He thus prays for rejection of the petition.

10. He submits that once the proceeding is closed for orders there is no question of the petitioner to withdraw the same. So far as, the application on stamp paper is concerned dated 11.11.2021 he submits that his son by force got his signature on a blank paper.

11. The signature though appears, it was necessary for the learned authority to verify the same as to whether the application is voluntarily made. Looking to the dates it is seen that the matter was closed on 22.07.2021. The alleged application is of 11.11.2021 on stamp paper. The order of learned SDO/Tribunal is dated 18.04.2021. Thus, it is not clear that if at all the application was made on 11.11.2021 why no order was not passed by the learned SDO on it immediately. From the date of order i.e. 18.04.2021 it is not seen that the matter was closed for order. The so called application was received on 11.11.2021 and the order was passed in April, 2022

i.e. after five months. It also creates doubt as no such application is required on a stamp paper. It appears suspicious circumstance. The learned SDO ought to have therefore, taken care to verify as to whether he really wants to withdraw his proceedings. Thus, this Court finds that the order dated 18.04.2022 itself is passed on wrong impression and without verifying the facts.

12. The learned Additional Collector has also not properly considered all these aspects and passed the order. In view of the above, this Court is inclined to allow the petition. The order dated 18.09.2023 passed in Kramanka-Dandpra-1/LR-2023/20911 by the the learned Additional Collector, Jalgaon and the order dated 18.04.2022 passed by the learned SDO/Tribunal under the Act are quashed and set aside.

13. The Writ Petition stands allowed and is disposed off.

14. The proceeding/application before Ld. SDO /Tribunal stands restored to its original position.

15. No order as to the costs.
16. After the remand of the matter the learned SDO to decide the proceeding before 30.12.2024.

(KISHORE C. SANT)
JUDGE

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