



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 16672 OF 2024

Balu Popat Kotwal and Others.

...Petitioners.

Versus

State of Maharashtra and Others.

...Respondents.

Mr. Santosh Bhosale for the Petitioner.

Mr. Shahaji Shinde, B-Panel Counsel and Ms. A. A. Nadkarni, AGP for the Respondent No. 1 to 4.

Coram : Sharmila U. Deshmukh, J.

Date : November 12, 2024.

P. C. :

1. Not on board. Upon mentioning, taken on production board.
2. Petition has been moved urgently in view of the fact that though the appellate proceedings before the Sub Divisional Officer [for short "SDO"] were closed for orders and interim stay to the order of Tahsildar was granted by SDO, the Circle Officer by notice dated 14th October 2024 has issued notice to the Petitioners that the impediment would be removed on 21st October 2024. Learned counsel appearing for the Petitioner submits that the order of SDO has not yet been received and within a period of three days after the closure of proceedings before the SDO for orders, the Circle officer has proceeded to execute the order of Tahsildar.

3. Learned AGP submits that the notice of Circle Officer is for removal of impediment on 21st October 2024 and therefore there is no urgency.
4. *Prima facie*, upon perusal of the record it appears that on 9th October 2024, the SDO in appellate proceedings has stayed the order of Tahsildar and thereafter on 11th October 2024 has closed the proceedings for passing of orders. It is not demonstrated that the stay has been vacated or that the order has been passed by the SDO and indeed no order could have been passed within a period of three days which would entitle the Circle Officer to implement the order of Tahsildar. The Circle Officer has clearly exceeded its powers and despite the stay granted by SDO, issued the notice dated 14th October 2024.
5. Issue notice to the Respondents returnable on **10th December, 2024**. In addition to Court notice, advocate for the Petitioner to serve the Respondents by private notice by all possible modes of service and file affidavit of service before the next date.
6. Learned AGP waives notice for the Respondent No. 1 to 4.
7. There shall be ad-interim relief in terms of prayer Clause (d).

[Sharmila U. Deshmukh, J.]