



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION NO.1644/2024 IN WRIT PETITION NO.7683/2023 (D)
Ms Riddhi Prasanna Dawle and anr. .Vs. Smt. Pratibha wd/o Prabhakar Dawle
and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. N. B. Kalwaghe, Advocate for applicants.
Mr. R. D. Dharmadhikari, Advocate for non applicant No.1.
Mr. A. Jaltare, Advocate for non applicant No.2.
Mr. A. J. Gohokar, A.G.P. for non applicant No.3.

CORAM : ANIL L. PANSARE, J.

DATE : 26.06.2024

Heard.

2. Learned counsel for the applicants submits that he has made an attempt to file appeal before the Collector, in terms of the judgment dated 12.06.2024, passed by this Court. However, the officers namely, Mr. Giri and Mr. Walondre, attached to the office of Collector, did not accept the appeal on the ground that the Collector has gone out for some urgent work. The appeal ultimately was received by the office of the Collector on 24.06.2024.

3. It is the grievance of the applicants that the Collector did not consider the application seeking stay and has simply issued notice to the other side.

4. So far as the grievance that the Collector did not consider the application is concerned, it appears that the Collector has not thought it proper to grant stay without hearing other side and, therefore, has issued notice. Merely because the

Collector has issued notice, one cannot jump to the conclusion that he has not considered the application seeking stay. Once the Collector issues notice, the order indicates that the Collector intends to hear the other side before passing any order in the matter.

5. So far as the other grievance is concerned, the learned A.G.P, on instructions, submits that the persons named by the applicants are attached to the office of Collector as Personal Assistants and are not responsible to receive appeal. The said assignment is with other persons who are present before the Court namely, Mr. Praful Sakharkar, Naib Tahsildar and Ms Shruti Surkar, Senior Clerk. According to the learned A.G.P, the appeal was not received on 20.06.2024 because the applicants and their counsel were not only filing the appeal but also pressing for order on stay application and on 20.06.2024, the learned Collector was not in office and, therefore, these two officers instructed the applicants and their counsel to approach the office on 21.06.2024. The applicants and the counsel, however, did not. They appeared on 24.06.2024 and accordingly, appeal was received in the office of Collector.

6. I find it strange, the manner in which the officers attached to the office of Collector are functioning. If the applicants intend to file appeal or, for that purpose, whosoever intends to file an application/appeal/letter, the concerned official ought to receive the same without any rider.

7. At this stage, I thought it appropriate to inquire with the learned A.G.P as to what procedure is followed in case the person is required to approach the Collector for urgent hearing.

The learned A.G.P, on instructions, submits that in such an eventuality if the Collector is not available in town, charge is handed over to the Additional Collector and he would entertain the matter. Learned A.G.P further submits that on 20.06.2024 the Collector was not in office but was in town hence the charge was not handed over to the Additional Collector.

8. If that be so, the officials dealing with the file ought to have instructed the applicants and their counsel to wait till the Collector resumes the office. That has been not done. Instead, the applicants and their counsel were instructed to appear at 01:00 p.m. on 21.06.2024.

9. In my view, the manner in which the appeal has been handled and processed by the office of Collector, prima facie, is not in tune with the acceptable norms. The applicants intended to file appeal under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The learned Collector is the appellate authority and is thus responsible to handle these sensitive cases. The proceeding under the Act of 2007 is quasi judicial proceeding and, therefore, in appropriate cases, the party may seek urgent relief which ought to be entertained by learned Collector (appellate authority). It is a different matter that the Collector may find no substance in the application and may pass an order accordingly. However, to not accept the appeal is something that is impermissible.

10. Learned A.G.P shall, in this regard, take detailed instructions and file affidavit of the officers concerned.

11. So far as the present application is concerned, the applicants have invited my attention to the order dated 12.06.2024. This Court, while granting liberty to the applicants (original petitioners) to approach the appropriate forum, continued the interim relief till 26.06.2024 i.e. till today. I am informed that the matter has been partly heard at 12:00 noon and is now fixed at 04.00 p.m. Since the appellate authority is seized of the matter, the remedy available for the applicants is to press for interim relief before him. It will not be appropriate for this Court to now continue the interim relief.

12. The application is accordingly rejected. However, the application shall be listed before the Court on 04.07.2024 for compliance of earlier part of the order.

(Anil L. Pansare, J.)