



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

906 WRIT PETITION NO.1358 OF 2024

GULABSINGH GOPINATH CHAVAN
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS

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Advocate for Petitioner : Mr. Dighe Praveen S.
AGP for Respondents-State : Mr. A. S. Shinde.
Advocate for Respondent No.5 : Mr. S. S. Kazi h/f Mr. S. D.
Hiwrekar.

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CORAM : S. G. MEHARE, J.
DATE : 01.02.2024

PER COURT :-

1. Heard the learned counsels for the respective parties.
2. Issue notice to the respondents.
3. Learned AGP waives service of notice for respondent Nos.1 to 4/State. Learned counsel Mr. Kazi holding for Mr. Hiwrekar waives service of notice for respondent No.5.
4. Learned counsel for the petitioner submits that the Will Deed executed by respondent No.5 in his favour is still in existence. Apart from the Will Deed, respondent No.5 had also executed a partnership deed. When the impugned order was passed, no fair opportunity of hearing was granted to him. Respondent No.5, making the allegation took a new stand that

her signatures were obtained fraudulently. She never had a partnership with petitioner. He submits that it was respondent No.5, who initiated the proceeding before the concerned Authorities. The District Supply Officer and the Deputy Commissioner (Supply) had rejected the applications. However, Hon'ble Minister considered it and accepted the petitioner as a partner. Accordingly, he is acted upon. The review application filed by respondent No.5 was against the principle of natural justice. Suddenly, she wanted to expel the petitioner from the partnership without following procedure of law. Hence, the impugned order of Hon'ble Minister dated 24.01.2024 may kindly be stayed.

5. Learned counsel for respondent No.5 has vehemently opposed the application. He submits that the petitioner was present before the Hon'ble Minister. A serious allegations of creating fraudulent documents and forged signatures were levelled against the petitioner. The Hon'ble Minister has considered the facts and passed the correct orders.

6. Learned counsel for the petitioner was also heard before the Hon'ble Minister. So it cannot be said that the hearing was not granted to him. He submitted that it was a one sided partnership deed wherein the petitioner got 95 % share and

respondent No.5 who was the original licensee has been granted only 5% share. There are circumstances to believe respondent No.5. She is an old aged lady. The Will Deed does not confer right upon the beneficiary unless the executant of the Will dies. The executant may cancel Will Deed at any time during his life. He prays that this is not a fit case to grant stay to the impugned order.

7. The impugned order reveals that respondent No.5 had made serious allegations of fraud and fraudulent partnership deed. The law is well settled that the Will comes into force only after the death of the executant. During the life of the executant, the beneficiary cannot claim the rights through the Will. The hearing was granted to the petitioner. His submissions were considered. If petitioner suffers any loss due to expelling him from partnership, he has a legal remedy. Considering the facts in toto, this Court is of the view that this is not a fit case to grant stay. Hence, the prayer for stay is rejected.

8. List the matter in due course.

(S. G. MEHARE, J.)

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vmk/-