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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4370 OF 2015

Vikram s/o Bhausahab Gunjal
Age-35 years, Occ - Agriculture
R/o Sangamner Kd.
Taluka - Sangamner,
District - Ahmednagar

PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary,
Revenue Department,
Mantralaya, Mumbai
2. The Collector, Ahmednagar,
District – Ahmednagar
3. Sub Divisional Officer,
Sangamner Division, Sangamner
Taluka – Sangamner,
District – Ahmednagar
4. Tahasildar, Sangamner
Taluka – Sangamner,
District – Ahmednagar

RESPONDENTS

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Mr. Satyajeet S. Dixit, Advocate for the petitioner
Mrs. S. G. Chincholkar, AGP for respondent State

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 16th APRIL, 2015

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with

consent of learned advocates for the parties.

2. Facts, relevant for consideration of present matter, which are not disputed are – on 6th June, 2014, appeal filed by the present petitioner was dismissed in default for absence of the petitioner and his advocate. Said order, according to the petitioner had been communicated to him on 12th August, 2014 and thereafter, restoration application had been filed on 3rd September, 2014. Despite explanation being given for submission of application for restoration on 3rd September, 2014, Sub-Divisional Officer, without reference to the contents of the application for restoration, simply observing that the application has been delayed, purportedly rejected the application. Against the same, the petitioner preferred a revision bearing RTS Revision No. 93 of 2015. The same also came to be rejected.

3. On perusal of the impugned orders passed by the Sub-Divisional Officer as well as by the Additional Collector, Ahmednagar in Revision, it is apparent that the authorities have not at all considered the explanation tendered by the petitioner, under the application for restoration that the order dated 6th June, 2014 dismissing the appeal in default had been communicated to the petitioner only on 12th August, 2014 and

not before and it was within thirty days therefrom the application for restoration had been moved. Accordingly, it was sought to be contended by the petitioner that the application cannot be considered to be delayed at all. Without reference to these aspects and reasons, the authorities have passed the orders.

4. Looking at that by causing deliberate delay petitioner was not going to gain any benefit from the same and further that the facts as have been referred to in the restoration application being not disputed at all, due credence has to be given to the submissions advanced by learned advocate for the petitioner.

5. In any case, the matters of delay are to be considered liberally. Litigant cannot be left in lurch by taking pedantic approach and jurisprudence always favours a remedy being available in law.

6. For non consideration of relevant submissions for condonation of delay, the impugned orders are unsustainable and, as such, those deserve to be set aside.

7. Having regard to aforesaid, orders dated 6th June, 2014 and 1st November, 2014 passed by Sub Divisional Officer, Sangamner and dated 31st March, 2015 passed by Additional

Collector, Sangamner and Revisional Authority, respectively are set aside and the application dated 3rd September, 2014 stands allowed. The appeal is restored to its position as was subsisting before 6th June, 2014. Petitioner to co-operate for expeditious disposal of the appeal. Rule is made absolute accordingly. Writ petition stands disposed of.

[SUNIL P. DESHMUKH, J.]

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