

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.9565 OF 2014

M/s. Mahavir Enterprises	.. Petitioner.
Vs.	
State of Maharashtra & Ors.	.. Respondents.

Ms. Ritika Agarwal with Mr. Prashant More for the Petitioner.
Mr. Amol D. Joshi for the Respondent Nos.1 and 2.
Mrs. Neha Bhide AGP for the State.

CORAM : A.K. MENON, J.

DATED : 6TH OCTOBER, 2015

P.C. :

1. The present petition seeks to challenge an order dated 1st June, 2014 whereby delay in filing the order of Additional Commissioner, Konkan Division, Mumbai declining to condone delay in filing of application by respondent no.3 and the application made by respondent no.3 came to be rejected. The said order was challenged before the Revenue Minister in RTS No.2713 of 2013.

2. The grievance of the petitioner is that the revisional authority proceeded to hear the RTS application without giving notice to the petitioner. The admitted position is that after the RTS application was filed, an interim order came to be passed on 22nd October, 2013 whereby the revisional authority stayed the order of Additional Commissioner till disposal of the

revisional application. Thereafter a direction was issued to respondent no.3 directing to serve a copy of the application upon the petitioner herein. It is the case of the respondent that the notice of hearing of the revisional application was duly served on 23rd January, 2014. In the meantime, it is the petitioner's case that an application for adjournment was filed on 28th January, 2014.

3. The principal grievance in the present petition is despite an application for adjournment, the revisional authority proceeded to hear the matter and passed an order on 1st June, 2014 and no notice of this hearing was given. It is the case of the petitioner that even thereafter further two letters were written by the petitioners on 5th July, 2014 and 14th July, 2014 seeking intimation about next date of hearing before the revisional application. It is the case of respondent no.3 that a notice of hearing of the application had already been served upon the petitioner on 23rd January, 2014 and an acknowledgment of the petitioner has been shown to the Court as well as to the petitioner. The copy of the said letter produced in the Court today shows that the petitioners have acknowledged the letter and made a remark which reads "Received. Letter contents unknown". It also bears a rubber stamp of the office of the petitioner.

4. Thus, it is clear that in pursuance of the directions of the revisional authority, notice of hearing of the revision application was served on 23rd January, 2014. From this, it becomes clear that the petitioners were aware that the revision application was pending before the Revisional

Authority. The copy of revisional application was served. However, after service of notice it appears that the petitioners have not taken any steps to attend to matter or make any enquiries as to fate of the revision application. This is despite intimation of the interim stay of the order of the Additional Commissioner, Konkan Division. The petitioners were therefore put to notice that the revisional application is pending before the Revisional Authority and it was the petitioner's duty to follow up the matter. Apart from writing letters dated 5th July, 2014 and 14th July, 2014 no steps appear to have been taken to attend to the matter.

5. In the letter dated 5th July, 2014 a copy of which appears at Exhibit '0-2' of the present petition, the petitioner, who was respondent no.3 before the revisional authority has acknowledged receipt of the summons/notice served upon them on 15th January, 2014 intimating date of hearing of 23rd January, 2014 but the grievance of the petitioner that a copy of the appeal memo was not served. However, this does not prima facie appear to be correct since on 15th January, 2014 respondent no.3 had served a copy of RTS application upon the petitioners, who seem to have acknowledged receipt. Thus, prima facie it does not appear that the copy of the application was not served, however, the conduct of the petitioners does not inspire confidence inasmuch as after knowledge of fact that the application was pending before the revisional authority, no serious attempts are made to attend to the hearing before the revisional authority.

6. In the present petition, it is not case of the petitioners that they had made efforts to attend to hearing or made enquiries about it. On the other hand the petitioner had only written the letters dated 21st January, 2014 seeking adjournment and two letters dated 5th July, 2014 and 14th July, 2014. The petitioners had not made any efforts to ascertain the fate of the hearing on 23rd January, 2014. In any event from perusal of the impugned order what is seen is that the delay in filing the application before the competent authority which has been condoned.

7. The other grievance of the petitioner is that the revisional authority has proceeded to record various facts which are incorrect and that recording of such incorrect facts would cause prejudice to the petitioners in conducting the proceedings before the competent authority. The petitioners are always at liberty to set out correct facts and the competent authority will hear and dispose of the application in accordance with law and without relying upon the factual statements or findings/conclusions, if any, recorded in the impugned order. The order impugned therefore calls for no interference. I, therefore, pass the following order :

- (i) The petition is therefore rejected.
- (ii) There will be no orders as to costs.

(A.K.MENON, J.)