

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

906 WRIT PETITION NO. 614 OF 2016

MURLIDHAR BABAN HARDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

.....
Advocate for Petitioner : Mr. R. R. Karpe
AGP for Respondents : Mr. P. N. Kutti
.....

CORAM : V. K. JADHAV, J.

DATED : 22nd JANUARY, 2016

PER COURT :-

1. Learned counsel for the petitioner submits that the Revision Application No. 35 of 2013 filed before respondent No. 2 Divisional Commissioner, Nashik, came to be dismissed in default. Consequently, the petitioner had filed Misc. Application No. 15 of 2015 for restoration of the said Revision Application No. 35 of 2013. Learned counsel further submits that respondent No. 2, by impugned order dated 28.07.2015, dismissed the Restoration Application on the ground that though the matter was posted for arguments, the applicant has not made his submissions.

2. Learned counsel submits that by allowing this petition, petitioner may be relegated to respondent No. 2 for making submissions in the Restoration Application and in any case, the petitioner will not seek any adjournment in the matter.

3. I have also heard learned AGP for all the respondents.

4. It appears from the impugned order dated 28.07.2015 that though the petitioner/applicant was present, restoration application came to be dismissed in default. It is difficult to understand from the impugned order as to how the present petitioner has refused to make his submissions in the matter. The impugned order is, thus, not sustainable. Hence the following order :

O R D E R

- I. The Writ Petition is hereby allowed.
- II. The order dated 28.07.2015 passed by respondent No. 2 Divisional Commissioner, Nashik Division, Nashik in Misc. Application No. 15 of 2015, is hereby quashed and set aside.
- III. Misc. Application No. 15 of 2015 is restored to its original position.
- IV. Petitioner shall appear before respondent No. 2 Divisional Commissioner, Nashik Division, Nashik on 15.02.2016 at 11.00 a.m.
- V. Respondent No. 2 Divisional Commissioner, Nashik Division, Nashik shall hear the petitioner on the date mentioned above and dispose of the Misc. Application No. 15 of 2015 on merits and in accordance with law.
- VI. Writ Petition is disposed of in the above terms. No costs.

(V. K. JADHAV, J.)