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

WRIT PETITION NO. 115 OF 2016

Shri Shivaji Tukaram Thakkar (Shinde) & Anr. .. Petitioners
Vs.
The Additional Commissioner, Pune Division,
Pune & Ors. .. Respondents

Mr. S. A. Sawant a/w. Mr. Abhilash Deshmukh for the Petitioners.
Ms. M. S. Bane, 'B' Panel AGP for the Respondent-State.

CORAM : A. S. GADKARI, J.
DATE : 11th AUGUST, 2017.

P. C. :

1. The petitioners have impugned order dated 02.02.2015 passed by the Additional Commissioner, Pune Division, Pune in Restoration Application No. 33/2013 and order dated 30.04.2013 passed in RTS/Revi/Pune/567/2011 dismissing the appeal for default by invoking jurisdiction of this Court under Article 227 of the Constitution of India.
2. Heard the learned counsel for the petitioners and the learned AGP.
3. The record indicates that being aggrieved by order dated 24.12.2009 passed by the Sub-Divisional Officer, Junnar Sub-Division, Khed in RTS Revision No. 10/2009, the petitioners preferred Revision No. 567 of 2011 before the Additional Commissioner, Pune Division, Pune. The said revision was dismissed for default by the concerned authority by

its order dated 30.04.2013 on the ground that the petitioners did not remain present for hearing before the said authority consecutively on two occasions. The petitioners, therefore, filed an application for restoration bearing No. 33 of 2013 on 12.08.2013. The Additional Commissioner, Pune Division, Pune by the impugned order dated 02.02.2015 rejected the said application on the ground that the reasons which were mentioned in the restoration application were not acceptable and there was no corresponding evidence produced on record to support the contention of the petitioners.

4. The record clearly indicates that, the petitioners were absent on two consecutive occasions before the Additional Commissioner, Pune and therefore the said authority dismissed the said revision for default. That, the petitioners thereafter filed an application for restoration on 12.08.2013 and the concerned authority has rejected the said application for restoration after about 1 ½ years. Perusal of the restoration application would reveal that the petitioners have given sufficient reasons for restoration of the revision application. In view thereof, respondent No.1 ought to have considered the said reasons sympathetically and ought not to have rejected the said application on the aforestated grounds.

5. May that as it may, taking into consideration the fact that the revision of the petitioner was dismissed for default, in the interest of justice I am inclined to allow the petition.

Hence, the following order:

- (i) Orders dated 02.02.2015 and 30.04.2013 passed by respondent No.1 are hereby quashed and set aside.
 - (ii) RTS/Revision/Pune/567/2011 is restored to the file of respondent No.1.
 - (iii) Respondent No.1 is hereby directed to dispose off the said revision within a period of three months from the date of receipt of this order. It is needless to mention that the respondent No.1 will grant an opportunity of being heard to all the concerned.
6. Petition is allowed in the aforesaid terms.

[A. S. GADKARI, J.]