

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.5019 OF 2016

(Ganesh Punjaji Zore and others
vs.

Shri Chadranath Swami Digamber Jain Mandir, Deulgaon Raja and another)

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*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

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Court's or Judge's Orders

CORAM : KUM. INDIRA JAIN, J.
DATE : 5th JULY, 2017.

Heard Shri N.A. Padhye, learned Counsel for petitioners and Shri M.R. Joharapurkar, learned Counsel for respondent no.1.

Challenge in petition is to the order dated 17/12/2015 passed by the Maharashtra Revenue Tribunal, Nagpur in Tenancy Revision No.TEN/B/73/2013 thereby setting aside the order passed by Sub Divisional Officer, Buldhana rejecting an application under Section 120 of the Bombay Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958 filed by the respondent-Trust.

It is apparent from the order that petitioners did not appear before the Tribunal. Copy of Roznama shows that except on 25/11/2013 and 15/01/2014, petitioner nos.1 to 3 never appeared before the Tribunal. So far as petitioner nos.4 to 9 are concerned,

despite service of notice on them through paper publication, they chose not to appear. The fact remains that without hearing the petitioners, order came to be passed by the Tribunal. They claim possession of the suit property since 1955 through their predecessors.

Under these circumstances and considering the nature of controversy between the parties, this court is of the view that one opportunity needs to be granted to petitioners subject to payment of costs. Hence, without going into merits of the case, order in the following terms is passed :

- i. Impugned order dated 17/12/2015 passed by the Maharashtra Revenue Tribunal, Nagpur in Tenancy Revision No.TEN/B/73/2013 is set aside subject to costs of Rs.5,000/- to be paid by each of the petitioners to the respondent-Trust within a period of one week from today
- ii. In case of failure to deposit costs within time, writ petition be treated as dismissed without further reference to the Court.
- iii. Matter is remanded to the Maharashtra Revenue Tribunal, Nagpur for its decision afresh in accordance with the law.
- iv. Parties to appear before the Maharashtra Revenue Tribunal, Nagpur on 14th July, 2017.

- v. Tribunal to decide the revision within one month.
- vi. No costs.
- vii. Authenticated copy of the order allowed to the learned Counsel for the parties.

JUDGE

**sdw*