

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO. 2337 OF 2016****Baji Rao Namdev Karpe & Ors.****..... Petitioners****VERSUS****Vijay Shivaji Karpe & Ors.****..... Respondents**

Mr.Drupad S. Patil for the Petitioners.

Mr.Jaydeep Deo for the Respondent nos. 1 to 4 and 7 to 11.

CORAM : R.D. DHANUKA, J.**DATE : 18th APRIL, 2018****P.C.**

By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 6th September,2014 passed by the Maharashtra Revenue Tribunal dismissing the revision application filed by the petitioners for default.

2. Learned counsel for the petitioners submits that the proceedings were transferred to Maharashtra Revenue Tribunal in the year 2012. The notice was received by the petitioners on 12th December,2012. However due to some unavoidable circumstances, the petitioners or their advocates could not remain present before the Maharashtra Revenue Tribunal. The revision application thus filed by the petitioners came to be dismissed for default. It is submitted that the impugned order which was the subject matter of the said revision application by which the proceedings were remanded before the lower authority has not been heard since then.

3. This writ petition is vehemently opposed by the learned counsel for the respondents on the ground that the petitioners have not made out a case for restoration of the revision application.

4. It is not in dispute that pursuant to the impugned order passed on 6th September, 2014 rejecting the revision application, the lower authority has not proceeded with the proceedings on remand and the same are still pending. This petition is also pending for more than two years. Though the reasons recorded for restoration of the revision application are not fully satisfactory however in the interest of justice on payment of cost, the petitioners are granted an opportunity to proceed with the said revision application on merit.

5. The impugned order dated 6th September, 2014 thus passed by the Maharashtra Revenue Tribunal is set aside. The Revision Application No. TC/Rev/10/2002/P is restored to file before the Maharashtra Revenue Tribunal for disposal of the said revision application on its own merits and without being influenced by the observations made in the impugned order dated 6th September, 2014.

6. The petitioners shall appear before the Maharashtra Revenue Tribunal and shall not seek any adjournment on the next date.

7. The Maharashtra Revenue Tribunal is directed to dispose of the said revision application within three months from the date of first meeting and shall not grant any unnecessary adjournment to any of the parties.

8. The petitioners are directed to appear before the Maharashtra Revenue Tribunal on 3rd May, 2018 at 11.00 a.m. The Maharashtra Revenue Tribunal shall fix any other date if this date is not convenient to the Tribunal.

9. Writ petition is made absolute in the aforesaid terms.

10. The petitioners are directed to pay a cost of Rs.30,000/- to the respondents within one week from today. The cheque shall be issued in the name of the 1st respondent. Learned counsel for the respondents states that the cost as awarded by this court shall be shared by the respondents. The petitioners are directed to handover the cheque of Rs.30,000/- to the learned counsel for the respondents within one week from today.

11. The parties as well as the Maharashtra Revenue Tribunal to act on the authenticated copy of this order.

12. It is made clear that if the cost is not paid to the respondents within one week from today, the order passed by this court to stand vacated without further reference to court. It is made clear that if the cost is not paid, the Maharashtra Revenue Tribunal shall not proceed with the matter. The proof of payment shall be produced before the Maharashtra Revenue Tribunal.

[R.D. DHANUKA, J.]