

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

WRIT PETITION NO.6231 OF 2016

Pramila Sumansingh Thakur

.. Petitioner

Vs.

The State of Maharashtra & Ors.

.. Respondents

Ms.Pramila S. Thakur, petitioner-in-person present.

Mr.R.P. Kadam, AGP for the respondent no.1.

Ms.Asha Nair i/by Diamondwala & Co. for the respondent nos.2 & 3.

CORAM : R.D. DHANUKA, J.

DATE : 5th September 2018

P.C.:

. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 10th March 2016 passed by the learned Member of the Maharashtra Revenue Tribunal at Mumbai on various grounds including the ground that the petitioner or her advocate had not appeared before the Maharashtra Revenue Tribunal on 2nd March 2016. The arguments were allegedly heard by the Maharashtra Revenue Tribunal in the absence of the petitioner, however, it is recorded in the order that the petitioner and her advocate were present.

2. A perusal of the impugned order at page 20 of the petition indicates that the Maharashtra Revenue Tribunal has recorded that the appeal was kept for hearing from time to time and it was finally heard on 2nd March 2016 when both the parties along with their advocates were present.

3. It is the case of the petitioner that the petitioner did not appear before Shri J.P. Dange, Member (A), Maharashtra Revenue Tribunal, Mumbai on 2nd March 2016 or any time prior thereto or subsequent thereto. Learned counsel appearing for the respondent nos.2 and 3 states that she had appeared before the Maharashtra Revenue Tribunal on 2nd March 2016 and when she argued the matter, the petitioner and her advocate were absent. Statement made by the learned counsel is accepted.

4. The petitioner had never engaged any advocate before the Maharashtra Revenue Tribunal. The observation made by the Maharashtra Revenue Tribunal that the petitioner along with her advocate were present and were heard on 2nd March 2016 appears to be factually incorrect.

5. I therefore pass the following order :-

- (i) The impugned order dated 10th March 2016 passed by the learned Member of the Maharashtra Revenue Tribunal at Mumbai is accordingly quashed and set aside.
- (ii) Appeal No.19 of 2014 filed by the petitioner is restored to file before the Maharashtra Revenue Tribunal for consideration of the said appeal afresh without being influenced by the observations made and the conclusions drawn in the impugned order dated 10th March 2016.
- (iii) Parties are directed to appear before the Maharashtra Revenue Tribunal at Mumbai on 1st October 2018 for directions. The Maharashtra Revenue Tribunal shall fix an early date of hearing of the appeal filed by the petitioner.

- (iv) The petitioner shall appear before the Maharashtra Revenue Tribunal whenever the date is fixed by the Maharashtra Revenue Tribunal and shall not seek any unnecessary adjournment.
- (v) The Maharashtra Revenue Tribunal at Mumbai shall dispose of the said appeal expeditiously.
- (vi) Writ petition is disposed of in aforesaid terms. No order as to costs.
- (vi) Parties as well as the learned Member of the Maharashtra Revenue Tribunal at Mumbai to act on the authenticated copy of this order.

R.D. DHANUKA, J.