

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO.5609 OF 2019

Shivaji s/o Narhar Kulkarni

.. Petitioner

Versus

Rangnath s/o Tanhehari Gore and ors.

.. Respondents

Mr M.K. Deshpande, Advocate for petitioner

Mr A.A. Khande, Advocate h/f Mr G.V. Sukale, Advocate for respondent
no.1-B

CORAM : ANIL S. KILOR, J.

DATE : 10.12.2019

ORAL ORDER :

1. In the present petition, the petitioner is challenging the Judgment and order dated 19.4.2018, passed by the learned Member (Administrative) Maharashtra Revenue Tribunal, Aurangabad Bench, Aurangabad in Proceeding No.09/D/2016/Beed, dismissing the application for restoration of revision application, which was dismissed in default of appearance of the revisional applicant, vide order dated 21.11.2016.

2. Heard Mr Deshpande, learned Counsel for the petitioner, Mr Khande, learned Counsel h/f Mr Sukale, learned Counsel for caveator respondent no.1-B.

3. Learned Counsel for the petitioner submits that the revision proceeding was dismissed in default on 21.11.2016. The application for restoration was filed on 1.12.2016 and in the said application, sufficient explanation was given by the petitioner to point out that the default on the part of the petitioner was bona fide and the same was not intentional or deliberate and, therefore, to meet the ends of

justice, learned Counsel for the petitioner prays for quashing and setting aside the impugned judgment and order dated 19.4.2018 and for restoration of revision petition.

4. After going through the application for restoration, I find that except the vague explanation and statement that the default is bona fide and not intentional or deliberate, no explanation was given by the petitioner for his non-appearance in the revision proceeding. After going through the impugned judgment, it is revealed that earlier also on two occasions, the revision petition was dismissed and it was restored. The learned Member of the Tribunal, while dismissing the application for restoration has observed the conduct of the petitioner. The reasons recorded for rejection of the application from paragraphs 4 are relevant and the same are reproduced hereinbelow :

“4. The respondent has argued that the matter was remanded by learned Deputy Collector by way of his order dated 30 December 1992. The applicant has filed revision application number 18/B/1994/Beed with delay. The delay was condoned, the execution of order of Deputy Collector remitting the case back for fresh enquiry was stayed by this Tribunal on the request of applicant. So, the proceedings before the Tahsildar could not be started. The applicant avoided to prosecute this revision, so the revision was dismissed in default on 13th June 2001.

The applicant filed Restoration application number 1/B/D/2008/Beed after 7 years. This Tribunal was pleased to restore the revision application on 4th August 2014.

After this restoration, the revision was fixed for final hearing since then the applicant was continuously absent,

this Tribunal has again dismissed the revision in default on 21st November 2016.

After dismissal in default on 21st November 2016, present Restoration application is again filed by the applicant. The proceedings of this application are also conducted by the applicant in irregular manner.”

5. Learned Counsel for the petitioner failed to point out that the observations made by the learned Member of the Tribunal are contrary to record or the facts recorded by the Tribunal are not proper or there is an illegality committed by the Tribunal while passing the impugned judgment and order.

6. In view of the said facts, there is no merit in the present petition. Accordingly, Writ Petition is disposed of. No order as to costs.

(ANIL S. KILOR, J.)

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