

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

WRIT PETITION NO. 1775 OF 2016

Dilip Ranganath Patil & Anr.

....Petitioners

V/s.

Madhukar Govind Patil & Ors.

....Respondents

Mr. Sunil G. Karandikar for the petitioners.

Mr. P.K. Dhakephalkar, Sr. Advocate a/w. Mr. Amol P. Mhatre
for respondent nos.1 and 2.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 29th JANUARY, 2019.

P.C.:

. With consent, petition is taken up for final hearing at the stage of admission.

2. The petitioners herein have challenged the order dated 22/01/2016 passed by the Member (A), Maharashtra Revenue Tribunal, Mumbai in Revision Application No.TNC/REV.-149/2013.

3. Mr. Sunil Karandikar, learned counsel for the petitioners submits that the revision application was filed along with the application for condonation of delay and that the arguments were advanced only on the application for condonation of delay on 13/01/2016. He has placed on record copy of the roznama. He submits that despite this fact, the Member of Administrative Tribunal has disposed of the

revision application on merits without hearing the parties.

4. Mr. P.K. Dhakephalkar, learned senior counsel for the respondent nos.1 and 2 vehemently opposes the application. He submits that the order indicates that the parties were heard on merits and that it is not open for the petitioners to take a contrary stand.

5. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

6. The records indicate that the respondents herein had filed the revision application challenging the order dated 23/10/2012 passed by the Sub-Divisional Officer, Bhiwandi Division. The said application was filed along with an application for condonation of delay. The impugned order states that the Revision Application was kept for hearing from time to time and was lastly heard on 16/01/2016. The roznama which is placed on record by the learned counsel for the petitioner, indicates that the arguments were heard on 13/01/2016. Thus the statement that the revision was heard from time to time and lastly heard on 16/01/2016 is contrary to the records. The records further indicates that the respondents herein had filed written arguments which were restricted to the prayer for condonation of

delay. The written argument do not touch the merits of the revision application. This fact also fortifies the contention of the petitioner that the parties were not heard on the merits of the matter. In my considered view, it is not open for the authority to dispose of the revision application on merits without hearing the parties. Hence, the impugned order cannot be sustained. Hence, the following order :-

- (i) The petition is allowed.
- (ii) The order dated 22/01/2016 passed by the Member, (A), MRT, Mumbai in Revision Application No.TNC/REV.-149/2013 is quashed and set aside.
- (iii) The matter is remanded to the Member, MRT, Bhiwandi for deciding the revision application on merits after hearing the respective parties.
- (iv) The petitioner and respondents are directed to appear before the Member, MRT, Bhiwandi on 11/02/2019 at 11:00 a.m.

7. Writ Petition stands disposed of in above terms.

(SMT. ANUJA PRABHUDESSAI, J.)