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

**WRIT PETITION (ST) NO. 17968 OF 2019**

Smt. Naynaben R. Patel

.....Petitioner

V/s.

State of Maharashtra and others

.....Respondents

Mr. V. S. Kapse i/b Fast Track Legal for the Petitioner

Mr. S. S. Panchpor AGP for the State

Mr. Harish S. Pawar for respondent nos. 3 & 4

**CORAM : NITIN W. SAMBRE, J.**

**DATE : JULY 5, 2019.**

**P.C.**

The Revision preferred by the petitioner came to be dismissed in default on 30/01/2019 by the Divisional Joint Registrar, Co-operative Societies, Mumbai. The petitioner preferred an application for restoration which also came to be dismissed by the order impugned dated 31/05/2019. As such, this petition.

2     The submissions of the learned counsel for the petitioner are, the Rozanama would demonstrate that for all the earlier dates but

for last three dates, petitioner through his representative remained absent and there was justifiable cause for the same. The learned counsel would urge that if put to strict terms, petitioner will comply with the same and the Revision can be heard on merit.

3 The prayer for setting aside the order impugned is objected by the learned AGP and the learned counsel for respondent. According to them, in absence of provisions for restoration in the Statute and since absence is not justified by giving sufficient documentary evidence, the order impugned can be justified. A dismissal of the petition is sought.

4 Considered rival submissions.

5 It is not in dispute that in the Revision there was an interim order passed in favour of the petitioner and the Rozanama produced on record demonstrates that but for last three dates before the date of dismissal i.e. 31/01/2019, matter was only once adjourned at the behest of the petitioner whereas number of times it was adjourned at the behest of respondent or for non availability of the concerned

authority.

6     Petitioner has come out with a case of failure to attend the proceedings because of accident of representative/Advocate.

7     The said contentions are raised since beginning before the authorities so also this Court. The petitioner, after dismissal of Revision on 31/01/2019 has immediately approached the Revisional Authority with a prayer for restoration of the Revision Application.

8     In the wake of above, in my opinion, sufficient cause is made out by the petitioner for restoration of the Revision Application.

9     Though the learned AGP has raised an issue of authority to grant restoration, it is required to be noted that there is no express bar under the provisions to entertain the prayer for restoration. Apart from above, appropriate support can be drawn while entertaining an application for restoration to the provisions of General Clauses Act.

10 In the aforesaid background, in my opinion, petition needs to be allowed.

11 Application for restoration is allowed. Revision is restored to file of Divisional Joint Registrar, Co-operative Societies, Mumbai subject to payment of cost of Rs. 50,000/- out of which Rs. 25,000/- to be paid to respondent and balance amount of Rs. 25,000/- to be paid to Kirtikar Law Library, High Court, Mumbai. The amount to be deposited/paid within period of 4 weeks from today.

12 Parties herein agree that they shall appear before Revisional Authority on 29/07/2019. The Revisional Authority is expected to decide the Revision on merit within period of 6 weeks from the date of their appearance.

13 Petition is allowed in the above terms and stands disposed of.

**[NITIN W. SAMBRE, J.]**