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

WRIT PETITION NO. 3692 OF 2022

Ashok Pandurang Kadam and anr. ..Petitioners
vs.
Mahadevi Shashikant Chougule and ors. ..Respondents

Mr. Mahindra B. Deshmukh for petitioners.

CORAM : M. S. KARNIK, J.

DATE : JULY 15, 2022.

P.C. :

1. Heard learned counsel for the petitioners.
2. None appears for the respondents though they are duly served.
3. The petitioners preferred an application under Section 9 and 10 of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947. By the impugned order dated 07.10.2021 passed by the Sub Divisional Officer, Kadegaon, the Application was disposed of. The Sub Divisional Officer observed that despite giving adequate opportunities to the petitioners to remain present for

hearing and submit their case, they failed to remain present on 31.03.2021, 25.08.2021, 22.09.2021 and 29.09.2021 and therefore, it appears that the petitioners are not interested in prosecuting the application. Hence, the application was disposed of without going into the merits of the case.

4. Learned counsel for the petitioners submitted that due to second wave of Covid-19 pandemic that began in the month of April 2021, as a result of which restrictions were imposed on the movements of the people, the petitioners were under the impression that only urgent matters are taken up and no adverse orders are being passed against the parties. Learned counsel submitted that the petitioners had no intention to commit a default and are interested in prosecuting the application. These averments are not controverted by the respondents. This application has been disposed of for non prosecution and not on merits. For the reasons stated in the writ petition, in my opinion, the petitioners deserve one opportunity to contest the application. The writ petition deserves to be allowed.

5. The writ petition is allowed. The impugned order is set aside. The application at Exhibit 'B' before the Sub Divisional Officer is restored to its file.
6. The applicants to remain present before the Sub Divisional Officer on 01.08.2022 at 11.00 a.m. along with copy of this order.
7. The applicants to co-operate with the Sub Divisional Officer and will not seek any unnecessary adjournment.
8. The Sub Divisional Officer may proceed to decide the application on its own merits and in accordance with law.
9. All contentions are kept open.
10. The writ petition is disposed of.

(M. S. KARNIK, J.)