

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 2305 OF 2021**

Ganpat Marya Gaikwad (deceased through legal heirs) Bhagwan Ganpat Gaikwad and Ors. .. Petitioners

Versus

Jomi Ganpat Bhoir and Ors. .. Respondents

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- Mr. Omkar G. Nagwekar for Petitioners
 - None for Respondents
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CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 20, 2022.

P.C.:

1. Heard Mr. Nagwekar, learned Advocate for Petitioners.
2. Perused the order dated 03.02.2021 passed by Learned President, Maharashtra Revenue Tribunal.
3. When the Petition was heard earlier, this Court had passed the following order on 30.06.2021.

*“ 1. The Petitioners are directed to deposit costs of Rs.25,000/- within a period of six weeks from today. After deposit of the costs by the Petitioners, issue notice to the Respondents, returnable on **23rd August, 2021.**”*

4. Mr. Nagwekar submitted that the order stands complied with and costs have been deposited in this Court. Necessary endorsement is found in the record of the case that the cost of Rs. 25,000/- has been deposited on 08.07.2021.

5. The Restoration Application filed by the Petitioner before the Tribunal came to be dismissed for non prosecution since it was not attended by the Advocate appointed by him. The Tribunal held that it appears that Petitioner has lost interest in the matter and hence the application came to be dismissed. This is the sole reason given in the impugned order.

6. Perusal of the Writ Petition shows that admittedly there was some delay on the part of the Petitioner, however, it cannot be termed to be intentional since in ground 8(g) it is stated that the Petitioner being 75 years old, entirely relied upon the Advocate appointed by him and he was completely unaware of the fact that the Restoration Application was listed and dismissed on 03.02.2021. That apart, it is seen that the dismissal of the application is in the middle of the Covid-19 Pandemic period.

7. For the reasons mentioned in the Petition and compliance of the above order wherein substantial costs as directed by the Court have been paid by the Petitioner, the impugned order dated 03.02.2021 stands quashed and set aside. Restoration Application No. RESTO/TNC/RAG/L-545/2016 stands allowed.

8. In view thereof, Revision Application No. TNC/REV/RAG/28/2015 stands restored to the record and file of the Tribunal.

9. Considering that the dispute between the parties is old, the

learned Tribunal is requested to dispose of the Revision Application within 6 months from today. Petitioner shall appear before the Tribunal on 02.01.2023 at 12:00 noon for seeking instructions.

10. Writ Petition is disposed.

[MILIND N. JADHAV, J.]

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