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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 8459 OF 2021

1. Jyoti Bhadkamkar &]
2. Swati Sathaye] ... Petitioners

V/s.
Kamalabai Keru Bagad] ... Respondent

Mr.G.S. Godbole a/w. Mr.R.S. Datar i/b. Mr.Akshay Kandarkar for Petitioners.
Mr.PG. Hartalkar i/b. Mr.Tejas Hartalkar for Respondent.

CORAM : A.S. GADKARI, J.
DATE : 31st March 2022.

PC. :

1. Heard Mr.Godbole, learned counsel for the Petitioners and Mr.Hartalkar, learned counsel for the Respondent.

2. By the present Petition under Article 227 of the Constitution of India, the Petitioners/Original Respondents in a proceeding under Section 70(b) of the Maharashtra Tenancy and Agricultural Lands Act, 1948 (for short, “the Tenancy Act”) initiated on an application filed by the Respondent herein, have impugned Order dated 11th October 2021 passed by the learned President, Maharashtra Revenue Tribunal, Mumbai (for short, “M.R.T.”), thereby confirming the Order dated 24th February 2020 passed by the Sub-Divisional Officer, Thane Sub-Division, Thane in Tenancy Appeal No. 255 of 2018, condoning delay of 676 days in preferring the said appeal and accepting

it on record.

3. Record indicates that, the Respondent had preferred an application under Section 70 (b) of the Tenancy Act, which came to be dismissed for non prosecution by an Order dated 21st October 2016 by the Tahsildar and Agricultural Lands Tribunal, Thane. The Respondent thereafter preferred Tenancy Appeal No. 255 of 2018 before the Sub-Divisional Officer, Thane Sub-Division, Thane, against the Order dated 21st October 2016 passed by the Tahsildar and Agricultural Lands Tribunal, Thane. There was a delay of 676 days in preferring the said appeal by the Respondent. The Sub-Divisional Officer, Thane condoned the said delay and accepted the said appeal on record, by its Order dated 24th February 2020. The Revision Application No. 164 of 2021 preferred by the Petitioners before the M.R.T. against the Order dated 24th February 2020 has been turned down by the Tribunal by its impugned Order dated 11th October 2021. However, while dismissing the revision preferred by the Petitioners, the learned President of M.R.T. has imposed a cost of Rs.5,000/- upon the Respondent for allowing the application for condonation of delay by the Sub-Divisional Officer, Thane.

4. Perusal of Order dated 24th February 2020 passed by the Sub-Divisional Officer, Thane indicates that, the Respondent has produced on record sufficient material and cause for condonation of delay of 676 days in filing the said appeal before the concerned Authority. As observed in para

No.3 of Order dated 11th February 2022 passed by my predecessor in the present Petition, the law laid down by the Hon'ble Apex Court in *The Collector, Land Acquisition, Anantnag & Anr. Vs. Mst. Katiji & Ors.*, reported in 1987 AIR 1353 and *Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy*, reported in (2013) 12 SCC 649, is squarely applicable in the present Petition.

5. There is a concurrent finding recorded by both the Authorities below. Perusal of record further clearly indicates that, the impugned Order dated 11th October 2021 passed by the learned President of the M.R.T. is well within the conformity of principles of law and does not require interference by this Court.

6. However, taking into consideration the fact that, the delay was of 676 days in filing application/appeal, is substantive in nature, the cost of Rs.5,000/- imposed upon the Respondent needs to be enhanced and is accordingly enhanced to Rs.25,000/-. The said cost be paid to the Chief Minister's Relief Fund, Maharashtra, Mumbai within a period of three weeks from today and a receipt thereof be produced before the Sub-Divisional Officer, Thane before whom the Appeal No. 255 of 2018 is pending for adjudication.

7. Petition is disposed off in the aforesaid terms.