



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9250 OF 2021

Dhanraj Nathuram Aswani ... Petitioner
Versus
The State of Maharashtra and others ... Respondents

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Mr. Drupad Patil alongwith Mr. Dinesh Gulabani for the Petitioner.
Mr. C.D. Mali, AGP for the State.
Mr. Abhinav Chandrachud alongwith Mr. Pawan Patil and Mr. Sanchit Chavan for Respondent No.7.

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CORAM : N.R. BORKAR, J.

DATED : 31 JULY 2023

P.C. :-

. By order dated 25 November 2011, respondent No.3 – the Additional Divisional Commissioner, Pune Division, Pune has dismissed the revision/appeal filed by the respondent No.7 for want of prosecution which was filed against the order dated 7 May 2007 passed by respondent No.4 – the Collector, Pune. The respondent No.3 thereafter by order dated 2 February 2015 rejected the restoration application, filed by the respondent No.7.

2. Against the order passed by the respondent No.3 rejecting the restoration application, the respondent No.7 herein had filed the revision before the respondent No.1 – State Government.

3. The respondent No.1, by the order impugned, has allowed the revision filed by the respondent No.7 on merit.

4. As the revision before the respondent No.1 was filed against the order of respondent No.3 dismissing the revision/appeal for want of prosecution, the respondent No.1 ought not to have decided the revision on merit. The order impugned, therefore will have to be set aside. However, considering the facts and circumstances, instead of remanding the matter back to the respondent No.1, it would be appropriate to restore the appeal/revision filed by the respondent No.7 on the file of respondent No.3. Hence, the order :

- (i) The impugned order is set aside.
- (ii) The appeal/revision filed by the respondent No.7 is restored on the file of respondent No.3.
- (iii) The respondent No.3 shall endeavour to decide the revision/appeal filed by the respondent No.7 as early as possible and in any case within a period of six months from the date of receipt of copy of this order.
- (iv) During the pendency of the revision/appeal, the order passed by the respondent No.4 shall remain stayed.
- (v) All contentions of the parties are kept open.
- (vi) Parties are permitted to file additional documents or affidavits, if any, before the respondent No.3.
- (vii) Needless to mention that respondent No.3 shall decide the revision/appeal on its own merits without being influenced by the order passed by the respondent No.1 - State Government.

(N.R. BORKAR, J.)