



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL REVISION APPLICATION NO.40/2023

Mohammed Sikandar Mohammed Shaukat .Vs. The Maharashtra State Board of Waqf
and Others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. F. T. Mirza, Advocate for applicant.
Mr. A. Z. Mirza, Advocate for non applicant no.1.
Mr. M. Shareef, Advocate of non applicant no.3.

CORAM : ANIL L. PANSARE, J.

DATE : 06.09.2023

Heard for some time.

The crucial issue is that the applicant herein, who was non applicant no.3 before the tribunal, has appeared before the tribunal on or about 13.12.2018, despite there being order passed by the tribunal proceeding ex parte against the applicant. The presence of applicant has been noted by the tribunal on subsequent dates.

It appears from the impugned order that on 23.12.2022, the tribunal itself noted that vide order dated 14.08.2015, the application proceeded ex parte against the non applicant no.3 (present applicant). On the same day, the applicant preferred an application seeking to set aside the order dated 14.08.2015. The said application came to be rejected on the count that the application was barred by limitation and further the applicant had not filed application seeking condonation of delay.

The counsel for the applicant submits that despite the applicant's presence having been recorded for

four years, his application ought not to have been rejected on the technical ground.

As such, the counsel for the non applicant is correct in contending that the application has been rightly rejected by the tribunal, since the applicant could not justify as to why has he not filed application seeking condonation of delay. However, the learned counsel for the applicant contends that his presence in the proceeding from the year 2018 was self sufficient to consider the application favourably. Thus, it is suggested that there was no delay.

Be that as it may, the fact remains that the application seeking to set aside the order of ex parte, has been rejected.

Counsel for the applicant submits that the only request is to permit the applicant to put forth his case before the tribunal.

To my mind, the purpose will be served, if the applicant is permitted to file application seeking to set aside the ex parte judgment.

The application is accordingly disposed of with liberty to the applicant to file application before the tribunal to set aside the ex parte decree, in accordance with law, which if filed, shall be considered on its own merit.

Needless to mention, the impugned judgment has not been set aside. All the points are kept open.

(Anil L. Pansare, J.)