



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

Writ Petition No.5397/2023

Sakharam thr Lrs V Tukaram thr Lrs and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Mr. N.A. Chawhan, Adv for petitioner.
Mr. N.V. Fulzele, Adv for resp. nos. 1(a) to 1(f).
Mr. B.M. Lonare, AGP for resp. no.2.

CORAM : AVINASH G GHAROTE J.
DATE : 13-10-2023

The petition questions the order dated 30-06-23 passed by the learned Additional Commissioner which has been dismissed in default. The learned Counsel for the petitioner submits that there was no intention to permit the matter to be dismissed in default and in fact since the written notes are already on record the learned Commissioner ought to have decided the appeal on merits. Mr Fulzele, learned Counsel for the respondent nos. 1(a) to 1(f) fairly concedes that the impugned order can be set aside, considering the circumstances, however subject to reasonable costs.

2. In view of the fact that the right of an appeal is a statutory right and appeal is required to be decided on merits, the impugned order is hereby quashed and set aside. The matter is remitted back to the Additional Commissioner for deciding the same on merits, however, at the costs of Rs. 1500/-.

3. The learned Counsel for the parties shall appear before the learned Additional Commissioner on 23-10-2023 without any further notice being required to be issued in that regard, who shall then hear the parties and decide the appeal as expeditiously as possible.

JUDGE

Deshmukh