



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

931 WRIT PETITION NO.5863 OF 2024

RAVINDRA MANSARAM PATIL AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. C.V. Thombre, Advocate for petitioners

Mr. P.D. Patil, AGP for respondent Nos.1 to 6

...

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 20th JUNE, 2024

ORDER :

1 The order regarding restoration of RTS Appeal No.313 of 2022 is passed by Additional Commissioner, Nashik Division, Nashik and same has been assailed in this writ petition. Mr. C.V. Thombre, learned Advocate appearing for the petitioners vehemently submits that the proceedings filed by respondent Nos.7 and 8 was dismissed in default for want of prosecution as they were consistently absent before the Divisional Commissioner for the period from 26.07.2022 to 17.04.2023. Consequently, in exercise of powers under Section 232(2) of the Maharashtra Land Revenue Code the appeal was

dismissed. Respondent Nos.7 and 8 filed the application for restoration along with application seeking condonation of 76 days delay. However, no plausible reasons have been mentioned in such application. He would submit that in fact the respondents were attending the proceedings in other Courts during the relevant period. The explanation sought to be given for their absence and delay in seeking restoration of appeal could not have been accepted. Therefore, he urges that the impugned order be quashed and set aside.

2 After going through the order impugned, it can be noticed that the dispute as regards to the mutation entry has been raised in appeal before Divisional Commissioner under Section 247 of the Maharashtra Land Revenue Code. The appeal was dismissed in default. The application for restoration was moved by respondent Nos.7 and 8 giving reasons for their absence. The Additional Divisional Commissioner, Nashik noted that dispute pertains to the agricultural land. The Advocate engaged by respondent Nos.7 and 8 could not attend the proceedings as he was out of station, therefore, proper instructions could not be passed on to him for preparing the notes of arguments. Accordingly, the delay has been condoned and the application for restoration has been allowed.

3 The discretion exercised by the Divisional Commissioner is

within the parameters of law. No jurisdictional error is pointed out in the impugned order. Hence, the writ petition stands dismissed.

(S.G. CHAPALGAONKAR)
JUDGE

agd