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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5027 OF 2024

GOUSIYA SAYYAD RAHIM

....Petitioner

VERSUS

**THE STATE OF MAHARASHTRA THROUGH SECRETARY AND
OTHERS**

.....Respondent

.....

Advocate for the Petitioner : Ms. Pooja V Langhe

AGP for Respondents: Mr. S.N. Kendre.

Advocate for respondent No.4, 7 to 14 : Mr. P.R. Katneshwarkar h/f. Mr. A.A. Khande.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 18TH JUNE, 2024.

ORDER :-

The petitioner takes exception to the order dated 17.5.2024 passed by the Member, M.R.T. Bench at Nagpur in Appeal No. 16/L/2024/A by which the record and proceedings (R. & P) has been remitted back to the District Collector.

2. Mrs. Langhe, learned advocate for the petitioner submits that proceeding in appeal is pending before the M.R.T. for adjudication of appeal alongwith delay condonation application.

3. The Appeal is posted on 1.7.2024 for further hearing and it has been prolonged since the respondent failed to file reply. She would submit that if R. & P. is sent back, the proceeding in appeal is likely to become infructuous as the respondents are making haste to get execution of the sale deed in pursuance of the permission to transfer land granted

under the order impugned in the appeal.

4. Mr. Katneshwarkar, learned advocate for the respondents submits that although the petitioner has preferred appeal before M.R.T., such appeal would not be maintainable in law. Further, the M.R.T. has not granted any interim stay to the order passed by the Collector. The R.& P. would not be necessary at this stage. The application for condonation of delay is still pending for consideration. In case the delay is condoned and appeal is admitted, the R. &P. can be called back.

5. Considering the submissions advance, it is apparent that the petitioner is aggrieved merely by the order remitting the R.& P. to the office of Collector. It is not in dispute that there is no interim stay to impugned order till the date. The appeal is not admitted by the M.R.T. and same is pending at the stage of delay condonation.

6. In these circumstances, petitioner cannot insist to retain the R.& P. with the M.R.T. No case is made out for interference in the impugned order under Article 227 of the Constitution of India. However, considering the submissions advanced, it would be appropriate to direct the M.R.T. to decide the pending application for delay condonation at the earliest and parties shall cooperate for that purpose. Hence, writ petition is dismissed with direction to the M.R.T. to dispose of the pending application for delay condonation within a period of six weeks from the date of this order.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-