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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6453 OF 2019**

Anjuman Islam Society and ... Petitioners
Anjuman-I-Islam Public Trust
Through its Hon'ble Gen. Secretary
Mr. G.A.R. Shaikh and POAH
Mr. Warunkar Noor Mohammad

Vs.

Mrs. Bayanabai Kondiba ... Respondents
Kambale (Since Decd) through
Her LRs and Others

Mr. Shabbir Jariwala i/b. M/s. Thakore Jariwala and Associates for the
Petitioners.

Mr. Prajakt M. Arjunwadkar for Respondent Nos. 2 to 10.

CORAM : GAURI GODSE, J.

DATE : 31st JANUARY 2024

P.C.

1. Parties agree that the petition can be disposed of finally at admission stage.

2. This petition takes exception to the order dated 5th August 2017 passed by Maharashtra Revenue Tribunal, Pune Bench rejecting the

petitioners application for restoration of the Revision Application. By the impugned order, the application is rejected on the ground that the petitioners failed to produce any supporting evidence for the reason mentioned for restoration of the application, that the petitioners Advocate was unwell.

3. Learned member of the Maharashtra Revenue Tribunal, Pune Bench has further referred to various dates on which the petitioners were absent.

4. Learned counsel for the petitioners states that a specific ground was raised in the application that the petitioners Advocate had undergone a hip joint surgery and hence was unable to attend the hearing. He therefore submits that the petitioners ought to have been given an opportunity of hearing on merits.

5. Learned counsel for the respondents supports the order by submitting that though various opportunities were given to the petitioners, they failed to appear in the matter and hence application for restoration is rightly rejected by Maharashtra Revenue Tribunal, Pune Bench.

6. I have perused the record. By the impugned order learned member of the Maharashtra Revenue Tribunal has recorded that the petitioners failed to produce any document in support of their contention that their Advocate was unwell. It is further observed that the power of attorney holder of the petitioners was a professor and hence it was possible for him to appear in the matter. It appears that on earlier occasions also the petitioners were absent. However, since it is a specific ground raised on behalf of the petitioners that the Advocate appearing for them had undergone a hip joint surgery and hence was unable to attend the hearing, in my view the petitioners ought to have been given one more opportunity of hearing.

7. Considering the reasons pleaded by the petitioners in the application for restoration, I find it appropriate to give an opportunity to the petitioners for hearing on merits. Hence the petition is allowed by passing the following order :

- (i) The order dated 5th August 2017 passed by the Maharashtra Revenue Tribunal, Pune Bench in Restoration Application No. Misc./NS/II/1/2015 is quashed and set aside, and the restoration application is allowed.

(ii) Revision Application No. TNC/REV/NS/XI/1/2012 is restored to the file of Maharashtra Revenue Tribunal, Pune Bench, Pune for hearing.

(iii) The petitioners shall co-operate for early disposal of the Revision Application.

(iv) In the event the petitioners fail to attend the hearing, the learned member of the Maharashtra Revenue Tribunal is at liberty to pass appropriate orders in absence of the petitioners.

(v) Parties to appear before the Maharashtra Revenue Tribunal, Pune Bench on 12th February 2024 and make an application for fixing date of hearing before the Maharashtra Revenue Tribunal, Pune Bench.

(vi) Petition is disposed of in the above terms.

(vii) All concerned to act on the authenticated copy of this order.

[GAURI GODSE, J.]