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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
REVIEW PETITION NO. 34 OF 2021
IN
CIVIL APPLICATION NO. 2284 OF 2017
IN
WRIT PETITION (ST) NO. 25818 OF 2001

Bhika Dada Thete and Others ... Petitioners
Vs.
The State of Maharashtra ... Respondents
through District Collector and Another
Ms. Chaitali Bhogle a/w. Mr. Amol Wagh i/b. Mr. Sagar Kasar for the
Petitioners.
Ms. M. P. Thakur, AGP for the State.

CORAM : GAURI GODSE, J.

DATE : 8th APRIL 2024

P.C.

1. Pursuant to the order dated 18th March 2024 a report is submitted by the learned Registrar (Judicial-1), stating that the review petition would pertain to the assignment of this Court.
2. The review petition is filed seeking review and recall of the order dated 6th February 2019 rejecting the Civil Application No. 2284 of 2017.

3. Learned counsel for the review petitioner submits that Civil Application No. 2284 of 2017 was listed before two different Courts on the same day. She submits that the Civil Application was listed at Sr. No. 1 before the learned Single Judge [Coram : Anuja Prabhudessai, J.] and on the same day it was also listed at Sr. No. 901 before another learned Single Judge of this Court [Coram: Sadhana S. Jadhav, J.]. She submits that the applicants were present before the learned Single Judge [Coram : Anuja Prabhudessai, J.] waiting for their matter. However, the matter was called out and decided before another Single Judge [Coram : Sadhana S. Jadhav, J.] on the same day and it was dismissed in the absence of the applicants.

4. In support of her submissions that the application was listed on the same day before two different courts, the applicants have annexed copy of the causelist dated 6th February 2019 indicating that it was listed at Sr.No.1. before the learned Single Judge [Anuja Prabhudessai, J.]. Order dated 6th February 2019 indicates that on the same day the same application was listed at Sr. No. 901 before another learned Single Judge [Coram : Sadhana S. Jadhav, J.]. Learned counsel for the applicants has also annexed a copy of the

notice dated 5th February 2019 regarding partial modification with effect from 6th February 2019.

5. Learned counsel for the applicants submits that in view of the modification in the assignment, the application was listed before the learned Single Judge [Coram : Sadhana S. Jadhav, J.]. However, in view of the aforesaid listings, the applicants were unable to attend the hearing and the application was dismissed. She further submits that thus there is an error apparent on the face of the record and no fault can be found that the applicants have not attended the hearing when the application was rejected.

6. She further submits that the said application was filed for restoration of the main petition which was dismissed for non-removal of office objection within the conditional time granted by the learned Registrar (Judicial-I). She thus submits that the applicant be granted an opportunity of hearing on the Civil Application for restoration of the Writ Petition.

7. Learned AGP does not dispute the fact of listing of the application before two different Courts on the same day.

8. I have perused the papers. The causelist annexed to the application and notice regarding partial modification of the assignment indicates that there is substance in the argument made on behalf of the applicants. It appears that since the same application was listed before two different Courts on the same day, the applicants were unable to attend the hearing when the Civil Application was dismissed. It appears that initially the application was listed on the daily causelist before the regular court, however in view of the partial modification in the assignment the same application was listed on the Supplementary board before the learned Single Judge who dismissed the application.

9. In view of the aforesaid, the order dated 6th February 2019 needs to be recalled to give an opportunity of hearing to the applicants. Hence, for the reasons stated above, the following order is passed :

- (i) The review petition is allowed and the order dated 6th February 2019 is recalled.
- (ii) Civil Application No. 2284 of 2017 is restored.
- (iii) Office is directed to list the Civil Application No. 2284 of 2017 before the appropriate court as per the roster.

[GAURI GODSE, J.]