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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4388 OF 2021**

Lahu Kondu Nichite Decd. Through Lrs Smt ... Petitioners
Dhanabai Gopal Pansare and Ors

vs.

Sulochana Nandu Mhatre and Ors ... Respondents

Mr. Neeta P. Karnik, for Petitioner.

Mr. Aniket Prakash Ranade, for Respondent.

Mr. B.B. Dahiphale, AGP for the State.

CORAM : GAURI GODSE, J.

DATED : 6th MARCH, 2024

P.C. :-

1. This petition takes an exception to the order dated 17th February 2021, passed by the Revenue Tribunal, Mumbai in Revision Application No. 28 of 2021. The said Revision Application No. 28 of 2021 was filed by the respondents herein for challenging order dated 26th October 2018, allowing Tenancy Appeal No. 113 of 2016.

2. The respondents had filed a separate Tenancy Revision Application No. 22 of 2021, for challenging the order passed by the Sub Divisional Officer on 15th February 2018, allowing the

application for condonation of delay in Tenancy Appeal No. 113 of 2016.

3. So far as Tenancy Revision Application No. 22 of 2021 for challenging the order for condonation of delay in filing an Appeal before the Sub Divisional Officer is concerned, respondents had filed a pursis for withdrawing the said Revision Application filed before the Maharashtra Revenue Tribunal ('MRT').

4. In view of the withdrawal pursis, a separate order was passed on 17th February 2021, rejecting the Revision Application as withdrawn.

5. The Revision Application No. 28 of 2021, challenging the main order of the Sub Divisional Officer, allowing the appeal was heard on merits and by order dated 17th February 2021, the same was allowed. However, the reasons recorded in the said order and operative part of the order indicates that the MRT has rejected the application for condonation of delay filed before the Sub Divisional Officer.

6. Both the parties agree that though the Revision Application challenging the condonation of delay was withdrawn by order dated 17th February 2021, the impugned order deals with the application for condonation of delay. Hence, both the parties consented for

setting aside the order dated 17th February 2021, passed in Revision Application No. 28 of 2021 and for restoration of the Revision Application to the file of Maharashtra Revenue Tribunal for hearing it afresh.

7. Learned counsel for the respondents submits that the respondents be granted liberty to make an application for recalling the order dated 17th February 2021, passed in Tenancy Revision Application No. 22 of 2021, as they intend to withdraw the pursis filed in the said Revision Application for withdrawal of the said revision application.

8. In view of the aforesaid, writ petition is partly allowed by passing following order:

I) Order dated 17th February 2021, passed by the Maharashtra Revenue Tribunal, Mumbai in Tenancy Revision Application No. 28 of 2021, is quashed and set aside and Revision Application is restored to the file of Maharashtra Revenue Tribunal, Mumbai for hearing afresh.

II) Respondents are at liberty to make an appropriate application before the Maharashtra Revenue Tribunal for recalling order dated 17th February 2021, passed in Tenancy Revision Application No. 22 of 2021. The said Application be

decided on its own merits.

III) Depending upon the outcome of the application, filed by respondents for recalling order dated 17th February 2021 in Tenancy Revision Application No. 22 of 2021, the Tenancy Revision Application No. 28 of 2021 be decided uninfluenced by the impugned order passed in Tenancy Revision Application No. 28 of 2021.

9. It is clarified that I have not examined the rival contentions of all parties on merits. Hence, all contentions of all parties on merits are kept open.

10. Writ Petition is disposed of in above terms.

(GAURI GODSE, J.)