

CNRNO:MHSCA20017032021s

IN THE COURT OF SMALL CAUSES AT MUMBAI

Marji Application No.252 of 2021

IN

Municipal Appeal No. 280 of 1999

National Bank Of Agriculture and
Rural Development

..Applicants
/Org. Appellants

V/s

1. MCGM & Ors.

...Respondents
/Org. Respondents

Mona Mehta, Advocate for Appellants.
Pallavi Thakar, Advocate for Respondents

Coram :- P. R. Choudhary
Additional Chief Judge,
Court Room No.18
Dt: 07.03.2022

ORAL ORDER :

1. This Marji application preferred by the appellant in Municipal Appeals No. 280 of 1999 for dismissing the appeal for non prosecution of appeal on 20.02.2021.

2. It is the contention of the appellant/applicant is that MMC has arbitrarily fixed rateable value of appeal premises @ Rs.55,35,055/-. The said rateable value challenged proceedings before Mantralya is pending, at that time appellant was directed to inform status of the proceeding pending in Mantralya. No effective order was passed in

Mantralaya. Representative do not able to state extract status of that matter since 17.12.2018, matter was adjourned from time to time.

3. It is further contention of the applicant that the advocate for the appellant was absent continuously for 10 dates from 17.01.2019 till 13.01.2020, thereafter in presence of Advocate of appellant, direction was given to the appellant to give status of the case pending in Mantralaya on 15.02.2020. But thereafter there was lock-down and due to COVID restriction, the advocate of the appellant did not turn to the court. The appellant is having good case and want to conduct the matter, hence appeal may be restored.

4. The application is resisted the respondents MMC by filing affidavit in reply at **Exh-9**.

It is contention of respondent that appellant was negligent and was not interested to contest the matter. The court directed the appellant to proceed with the matter, but appellant did not proceed with the matter. The appellant has not given bonafide reason to restore the appeal. Hence, prayed to dismiss the appeal.

5. I have gone through the application and affidavit in reply and rejoinder order passed below **Exh-37, 38 and 39** and Roznama of the proceeding. It seems that appellant dragged the matter for years together. The matter is more than 10 years old and it was adjourned because of the

negligent attitude of the appellant but still it is fact that in sue moto Writ Petition No. 20 of 2020 the Supreme Court have held that delay to file an appeal or application or the proceeding is to be contended till 31.03.2022. Said order was lack for certain period but it is fact that order is passed during period of COVID in fact an opportunity is necessary to be given to the appellant to contest the matter. At the time of deciding this application previous conduct is not found to reject application. On the date when matter is dismissed and reasons for absency of party is to be considered. At the same time, this court again ignore the fact that matter was dragged by appellant for 10 years to reasonable cause is to be imposed. Hence I proceed to pass following order.

ORDER

1. The Marji application at is hereby allowed and costs of Rs. 20,000/- is to be paid within 30 days from today to Municipal Commissioner Mumbai, Municipal Corporation.
2. The Municipal Appeal No. 280 of 1999 be restored of its original stage.
3. If costs is not paid within stipulated period order will be stand revoked.

(P. R. Choudhary)
Additional Chief Judge,
Court Room No.18

Date :- 07.03.2022

Order dictated on : 07.03.2022
 Order transcribed on : 08.03.2022
 Order checked and signed on : 08.03.2022

