

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

**WRIT PETITION NO. 6158 OF 2014
WITH
WRIT PETITION NO. 6157 OF 2014**

Balasaheb s/o Tukaram Kurhe,
Age: 47 years, Occu: Agri.,
R/o : Bungalow No. 14, Samatanagar,
Savedi, Ahmednagar.

...Petitioner

versus

- 1) Hazi Meer Ajimoddin Hazimeer
Karimoddin Kawijung Jahagirdar,
Age: 68 years, Occu: Agri.,
- 2) Hazi Meer Shamshoddin Hazimeer
Karimoddin Kawijung Jahagirdar,
Age: 55 years, Occu: Agri.,
- 3) Shafiyoddin Hazimeer
Karimoddin Kawijung Jahagirdar,
Age: 49 years, Occu: Agri.,
- 4) Rafiyoddin Hazimeer
Karimoddin Kawijung Jahagirdar,
Age: 58 years, Occu: Agri.,
- 5) Ajgari Begum Rasul,
Age: 70 years, Occu: Household,
- 6) Rashida Begum Shaikh Sadik,
Age: 53 years, Occu: Household,
- 7) Muniroddin Sharifoddin Jahagirdar,
Age: 80 years, Occu: Agri.,
- 8) Smt. Sayyad Raisa Altaf,
Age: 46 years, Occu: Household,

(deleted respondent Nos. 7 & 8
as per Court's order dated
1/4/2015)

All R/o : Mangal Gate Haweli,
Kawijung Haweli, Ahmednagar,
District Ahmednagar.

9) The Sub Divisional Officer,
Ahmednagar,
District Ahmednagar.

10) The Additional Collector,
Ahmednagar.

...Respondents

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Mr. A. K. Gawali, Advocate for petitioner.

Mr. N. B. Narwade, Advocate for respondent Nos. 1 to 8.

Mr. S. P. Daund, A. G. P. for respondent/State.

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CORAM : N.W. SAMBRE, J.

DATE : 28TH APRIL, 2015

ORAL ORDER :

Since the facts and circumstances of both the petitions are similar, parties consented for final disposal at admission stage.

2. Heard Mr. Gawali, learned Counsel for the petitioner. He has invited my attention to the provisions of Section 252 of the Maharashtra Land Revenue Code, 1966, so as to canvass that rejection of main appeal against the order of condoning the delay was very much tenable and according to him, the reasons and findings recorded thereof by the Additional Collector are contrary to the said Act.

3. Mr. Narwade, learned Counsel for the respondents

would urge that the findings are recorded by the said authority on merit including that of maintainability. According to him, once there are findings on merit, the petition before this Court is not maintainable. He sought to rely upon the observations made in the order impugned.

4. If the provisions of Section 252 of the Act are taken into account which provides for non-maintainability of appeal against certain orders, said Section does not put embargo on the right of the petitioner to prefer the appeal against the order condoning delay.

5. As such, the view taken by the authority in the order impugned dated 06/03/2014 is not sustainable. As such, the order order is quashed and set aside. The matter is remitted back to the Additional Collector, Ahmednagar, who is directed to decide the same on merits.

6. The writ petitions stand disposed of in above terms.

7. All pending civil applications are disposed of accordingly.

[N.W. SAMBRE, J.]