

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.2825 OF 2015**

**WITH**

**WRIT PETITION NO.2826 OF 2015**

**Shri. Suraj Ramesh Parmar**

**.. Petitioner**

**Versus**

**Shri. Kewal Kishan Monga and others**

**.. Respondents**

**Ms. Gauri Godse, for the Petitioner.**

**CORAM : R.M. SAVANT, J.**

**DATE : 27<sup>th</sup> APRIL, 2015**

**PC.**

1. The Writ Jurisdiction of this Court is invoked against the orders both dated 28.11.2014 passed by the Learned President of the Maharashtra Revenue Tribunal, Mumbai, ('MRT' for short) by which orders the application for condonation of delay in filing the Revision Applications being Nos.347 and 348 of 2012 came to be allowed.

2. The Revision Applications have been filed against the orders dated 27.07.2011 passed in the Appeals filed by the Respondent No.1 challenging the orders passed under Section 70(b) and 32G which orders were passed in favour of the predecessors of the Petitioner herein one Kamlibai Narayan Mastaan. Though the said orders were passed in the

year 2011, it is the case of the Respondent No.1 as evidenced by paragraph VI of the Revision Application that it is during the course of the arguments in the MRT in Tenancy Revision No.56/B/2004 which took place on 11.04.2012 that he became aware of the passing of the orders dated 27.07.2011. It is further the case of the Respondent No.1 that he has not been given intimation of the said orders from the office of the Sub Divisional Officer and therefore, there is some delay in filing the Revision Application. In paragraph VI, the Applicant has thereafter mentioned some other reason as to why filing of an Appeal against the impugned orders was not necessary. The Learned President of the MRT has by the impugned orders dated 28.11.2014 allowed the said applications for condonation of delay in filing the said two Revision Applications. In the impugned order, the Learned President has referred to suo-moto action taken by the Sub Divisional Officer/ Competent Authority in the revisional jurisdiction. The Learned President of the MRT has further adverted to the case of the Respondent No.1 i.e. his tenancy rights were recognized by the Competent Authority and those rights were challenged by Tenancy Revision No.251 of 2011 and that after he received the service of the said Revision Application in July 2012 that he came to know about the orders passed by the Sub Divisional Officer which is against his interest. The Learned President of the MRT has thereafter commented on the manner in which the Revenue

Authorities intimate the orders passed by them. The Learned President of the MRT has observed that the said orders are intimated as per the will, fancies of the Revenue Authorities and therefore, came to a conclusion that the delay in filing the Revision Applications has been sufficiently explained by the Respondent No.1 and that the delay was not caused on account of any intentional and deliberate attempt on the part of the Respondent No.1.

3. In so far as the Revision Applications are concerned, it seems that the Trust in question i.e. Ratanshi Premji Dharmadaya Trust and its trustees were impleaded as parties to the Revision Applications. The array of trustees were from Respondent Nos.1(a) to 1(f). The notice in respect of the application for condonation of delay in the said two Revision Applications was served upon the Respondent Nos.1(d) and 1(f) and the Learned Counsel appearing on behalf of the Applicant before the MRT had produced the postal receipts of the acknowledgment of the RPAD. However, in so far as the Respondent Nos.1(a), 1(b), 1(c) and 1(e) who are also the trustees of the said Trust, the packets addressed to them have come back with postal remarks 'unclaimed'. The Respondent Nos.1(d) and 1(f) though served did not choose to remain present and therefore were marked as absent.

4. The Learned Counsel appearing on behalf of the Petitioner would question the order on the ground that the applications for condonation of delay could not proceed with in view of the fact that three of the trustees were not served. In my view, the said contention would only have to be stated to be rejected, in view of the fact that two of the trustees i.e. Respondent Nos.1(d) and 1(f) were served and in spite of service did not choose to remain present before the MRT. As indicated above, in so far as the other three trustees are concerned, their packets bear the stamp 'unclaimed', when the Trust is arrayed as a party and two trustees are served, the hearing of the proceedings cannot be protracted on the ground that all the trustees have not been served, more so in the instant case when the packets bear the remark unclaimed. In any event the dispute in the Revision Applications is between the Petitioner and the Respondent No.1 as regards tenancy. The Learned Counsel for the Petitioner also takes exception to the observations made by the Learned President of the MRT in the impugned order. She contends that the Learned President has made observations on merits. In my view, a reading of the order makes it clear that the Learned President of the MRT was merely referring to the case of the Respondent No.1 and was not making any comments on the merits of the matter. Even assuming that some comments on merits are made obviously, they cannot influence the

adjudication of the main Revision Applications and can be said to have been made only for the purposes of considering the application for condonation of delay. The Revision Applications would undoubtedly have to be tried on their own merits and in accordance with law. The orders condoning the delay therefore cannot be faulted with. Hence, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petitions are accordingly dismissed.

**[R.M. SAVANT, J]**