

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 5046 OF 2014

Shri Dinkar Gajanan Chaudhari.

.. Petitioner

Vs.

Smt. Kanta Rasiklal Makheja  
(since deceased) thr. LR's & Ors.

.. Respondents

...

Mr. G. S. Godbole a/w Mr. Parag M. Tilak for Petitioner.  
Ms. Gauri Godse for respondent nos. 2, 3 and 4.

**CORAM : A. K. MENON, J.**

**DATE : OCTOBER 5, 2015.**

P.C.:

1] In this Petition the petitioner challenges the orders dated 9<sup>th</sup> October 2013 and 20<sup>th</sup> October 2013 passed by the Hon'ble Member, Maharashtra Revenue Tribunal, Bombay in Revision Application 399 of 2011 whereby the said authority refused to condone the delay of 480 days in an application for condonation of delay.

2] According to Mr. Godbole learned counsel of the petitioner, preferred an application for condonation of delay before the Tribunal by way of Tenancy Revision Application No. 399 of 2011 wherein it was his case that the Appeal is restricted to Survey No. 34 Hissa No. 1 of Village Kavesar, Taluka & Dist. Thane. It is the Petitioner's contention that he has not received any intimation regarding the order passed by the Sub Divisional Officer at Thane, in Tenancy Appeal No. 29 of 2010 and the appellant being sick he could not follow up and enquire about the said

order. Although he had appointed one, the constituted attorney was also not aware of the same. However, it is only later when the constituted attorney made inquiries that he came to know an order was passed on 17<sup>th</sup> May 2010. Thereafter it is their case that the constituted attorney has contacted his advocate and requested that the copy of the order to be collected from the office of the SDO. It is his further case that the copy of the order was received on 9<sup>th</sup> November 2011 and hence there is a delay of about 480 days. Mr. Godbole pointed out that since the intimation of the proceeding before the learned SDO had not been received, the petitioner was unaware of the same.

3] An affidavit-in-reply has been filed by Shri Suraj Parmar constituted attorney of respondent no. 2, 3 and 4, whereby the present application is opposed and it is contended that the present application is not bonafide, no reasons have been given for explaining the delay. Ms. Godse learned advocate appearing for respondent no. 2, 3 and 4 points out that in the original application the subject matter was 6 different plots of which the present applicant has restricted his appeal only to Survey No. 34 Hissa No.1. It is clear from this fact that the original owner and the petitioner who claims to have been unwell at the relevant time, was not at all concerned with the plots in question having created any 3<sup>rd</sup> party rights inter-alia in favour of the petitioners herein.

5] Ms. Godse learned counsel for the respondents further pointed out that, the order passed by the SDO in Tenancy Appeal No. 29 of 2009, was in respect of all properties bearing Survey No. 61/3, 62/2, 29/3, 34/1, 126/3 and 27 of Village Kavesar, Taluka & Dist. Thane. By the order in the Tenancy Appeal the SDO rejected the tenancy claim of the petitioner in respect of the aforesaid plots. However, the Revision Application bearing No. 399/B/2011 and the Writ Petitioner are filed only in respect of Survey No. 34/1. Thus, in respect of the other properties in which they claimed tenancy there is no challenge. The learned counsel pointed out that the petitioner was guilty of gross delay, which is not explained in any manner and therefore the Tribunal was justified in rejecting the Revision Application has been barred by the Law of Limitation.

6] Ms. Godse further made a grievance of the fact that the petitioner had deliberately suppressed the Affidavit-in-Reply filed by the respondents to the Application for Condonation of Delay which had dealt with these facts in detailed and is demonstrated that the Revision Application was filed with malafide intention. She referred to paragraph 5 of the said Reply, wherein her clients were pointed out that the alleged sickness of the applicant cannot be a ground of being unaware of the impugned order passed in the Tenancy Appeal and no medical Certificate or any evidence of illness was filed at any stage and that in any event the alleged illness of the applicant becomes irrelevant since the applicant was represented by the Constituted Attorney and even that

application for Condonation of delay was made by the Constituted Attorney and not by the original party.

7] It is well settled that in cases of delay mere general reasons are not sufficient and delay is required to be explained in detail with sufficient and plausible explanations. In the circumstances having considered the above facts it becomes clear that the Application of Condonation of Delay was not bonafide. Furthermore after having heard the learned counsel in the parties and having perused the record with their assistances, I find that, no attempt has been made to explain the delay in any manner that requires further consideration by this Court. The impugned order does not call for interference in the Writ Jurisdiction of this Court, I therefore pass the following order.

### **ORDER**

- 1] The Writ Petition is dismissed.
- 2] There will be no order as to costs.

**(A. K. MENON, J.)**

**CERTIFICATE**

Certified to be true and correct copy of the original signed Judgment/Order.