

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

WRIT PETITION NO. 7339 OF 2015

Gavtya Jivlya Andher

(Since deceased through his Legal Heirs)

Navsubai Madhukar Ayare and others

.. Petitioners

Versus

Smt. Deena Pramod Baldota and others

.. Respondents

WITH

WRIT PETITION NO.7340 OF 2015

Zipper Maya Bhoir

(Since deceased through his Legal Heirs)

Smt. Kashibai Damu Gaware

.. Petitioner

Versus

Smt. Deena Pramod Baldota and others

.. Respondents

Mr. P. K. Dhakephalkar, Senior Advocate a/w Mr. R. A. Thorat, Senior Advocate a/w Mr. P. J. Thorat, for the Petitioner in both Petitions.

Mr. N. R. Bubna, for the Respondent No.1 in both Petitions.

CORAM : R.M. SAVANT, J.

DATE : 6th AUGUST, 2015

PC.

1. The above Writ Petitions arise out the orders passed by the Maharashtra Revenue Tribunal, Mumbai ("MRT" for short) both dated 08.05.2015, by which orders the Learned President, Maharashtra Revenue Tribunal has propounded a particular course of action i.e. of adducing

documentary evidence before him.

2. The said Revision Applications have arisen out of orders passed in Appeal by the Sub Divisional Officer, by which orders the Sub Divisional officer has refused to entertain the Appeal on the ground that there was a delay of about 43 years in challenging the order dated 20.02.1961 passed by the Tahsildar. Hence, the Revision Applications were arising out the orders, where the Appellate Authority had refused to entertain the Appeals on the ground of delay. The issue that was required to be addressed by the MRT in the Revision Applications was therefore restricted as to whether the delay was required to be condoned by the Appellate Authority for the proceedings to be heard on merits. However, a reading of the impugned order discloses that the MRT was venturing to consider the issue as regards challenge to the said order dated 20.02.1961 on merits rather than restricting it to whether the delay in filing the Appeals was required to be condoned. The above Petitions were heard for some time when the Learned Counsel for the Respondent No.1 was granted time to take instructions as to whether the Respondent No.1 was prepared to go back having regard to the nature of the order passed by the MRT, the Petitions were therefore adjourned for today.

3. The Learned Counsel for the Respondent No.1 Mr. N. R.

Bubna on instructions of the Respondent No.1 who is personally present in Court states that the Respondent No.1 has no objection to the impugned order passed by the MRT being set aside and the matter being relegated back to the MRT for a de-novo consideration of the Revision Applications. The Learned Senior Counsel for the Petitioners in both the Petitions has no objection to the said course of action being followed. Hence, by consent of the parties, the impugned order dated 08.05.2015 passed by the MRT is accordingly quashed and set aside and the Revision Applications are relegated back to the MRT for a de-novo consideration. The MRT to decide the Revision Applications on their own merits and in accordance with law, but having regard to the observations made in the instant order. With the directions as aforestated, the Writ Petitions are disposed of. The Learned Counsel for the parties state that the Revision Applications are to come up tomorrow i.e. on 07.08.2015 before the MRT. The Learned Counsel to apprise the MRT of the developments in the above Petitions. The MRT to dispose of the said Revision Applications latest by 31.10.2015.

[R.M. SAVANT, J]