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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11709 OF 2014

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| 1. | Sumitrabai Vaman Jadhav | PETITIONERS |
| | Age - 42 years, Occ - Household | |
| 2. | Yogesh Vaman Jadhav, | |
| | Age - 21 years, Occ - Agri | |
| 3. | Anil Vaman Jadhav | |
| | Age - 25 years, Occ - Agri | |

All R/o Tidka, Taluka - Soygaon,
District - Aurangabad

VERSUS

- | | | |
|----|-------------------------------------|-------------|
| 1. | The Superintendent of Land Records | RESPONDENTS |
| | Damdi Mahal, near Panchayat Samiti, | |
| | Aurangabad | |
| 2. | Vilas Sonaji Jadhav, | |
| | Age - 40 years, Occ - Agri | |
| | R/o Tidka, Taluka - Soygaon, | |
| | District - Aurangabad | |

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Mr. Manoj V. Shelke, Advocate for the petitioners
Mr. A. P. Basarkar, AGP for respondent-State
Mr. S. S. Munde, Advocate for respondent No.2.

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 27th JULY, 2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the parties.

2. Sans other details the requisite factual matrix for decision would be that, consolidation scheme which according to the petitioner had been completed around 1967 and certain proceedings were purportedly moved at the instance of respondent No.2 only in January, 2014. While upon notice of the same the petitioner had been before respondent No.1. He had specifically taken a stand that there has been thirty seven years' delay in making approach against consolidation scheme and there is no plausible reason coming forth for condonation of delay.

3. It appears that under order dated 28th November, 2014, respondent No.1 in spite of observing that the matter had been closed for decision on delay condonation on 10th November, 2014, appears to have been decided the appeal itself. This of course, is rather incompatible and incongruous to the procedure, which is expected generally to be followed by *quasi* judicial authority.

4. Learned advocate for respondent No.2 purports to contend that although it may have been closed for orders on condonation of delay, yet it may be taken into account that the matter had been pending for over eleven months before the authority and as

such, it may be that the authority had been apprised of the factual and legal position during this period and as such, he has decided the matter.

5. Although learned advocate for respondent No.2 has contended so he has not been able to lay any hand as to on which specific day or date the petitioners had an opportunity to address the matter on merits.

6. Endorsements as are appearing in the proceedings sheet as well in the order as has been recorded on 28th November, 2014, specifically the very first paragraph referred to as preliminary (प्राथमिक) and further recording in respect of arguments indicate that the petitioners had addressed only on delay condonation.

7. Though learned advocate for respondent No.2 also refers to that the petitioners may have recourse open to alternate remedy, however, having regard to the glaring facts, I do not deem it appropriate, in the circumstances to relegate the petitioners to alternate remedy.

8. It is being deemed appropriate that instead of whiling away time, ends of justice can be made to meet with by setting

aside the impugned order, relegating the parties to respondent No.1 for decision on delay condonation

9. In the circumstances, impugned order dated 28th November, 2014 passed by respondent No.1 – Superintendent of Land Records, Aurangabad is set aside. The matter is restored before it for decision on delay condonation. Writ petition as such, stands allowed. Rule is made absolute in aforesaid terms.

10. It is open for the parties to address themselves afresh on delay condonation before respondent No.1. Respondent No.1 to give proper opportunity to the parties concerned and proceed with the matter as expeditiously as possible and to decide on the delay condonation as early as possible, preferably within a period of two months from the date of receipt of writ of this order. In order to avoid further delay in appearance before the authority, learned advocates for the parties fairly state that they would instruct the parties to appear before respondent No.1 on 10th August, 2016, which shall obviate notice from the authority to parties for appearance.

[SUNIL P. DESHMUKH, J.]