

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11504 OF 2013

Ganpat Tukaram Kambale (Since Deceased)]
Through his Legal Heirs :-]
1a) Smt. Rahibai Ganpat Kambale, and Ors.] ... Petitioners

Versus

Behram Jamsethiji Munsif and Ors.] ... Respondents

Mr. Sumit Khaire for Petitioners.
Mr. R. N. Sanghavi for Respondent No.4.

CORAM :- M. S. SONAK, J.
DATE :- JANUARY 13, 2016

P. C. :-

1. The challenge in this petition is to the Judgment and Order dated 06/04/1998 made by the Maharashtra Revenue Tribunal, Pune, dismissing the petitioners' revision application against S.D.O.'s order dated 11/08.1994. The S.D.O., by order dated 11/08/1994, had dismissed the petitioners' appeal against Tahsildar's order dated 10/12/1993, in the matter of petitioners' claim to tenancy in respect of the suit property.

2. Apart from the circumstance that the 3 authorities have concurrently held against the petitioners, there is really no valid explanation for the gross and inordinate delay of over 13 years in institution of this writ petition.

3. In para 8 of this petition, the petitioners, in the context of delay, have pleaded thus :-

“8. The Petitioner states and submits that the Judgment and order is dated 6-4-1998. The Petitioners state & submit that Petitioners had made application for certificate on 24/10/2011. The Copy was available only on 25/10/2011. The Applicants state & submit that Applicants had handed over the paper to Adv. B. C. Kamble for filing the Writ Petition against the said order. The Petitioner states and submit that Adv. B. C. Kamble expired on 6/11/2006. The Applicants states & submit Petitioners No.1b who is looking after the matter was expired on 30/06/2008. The Petitioners state & submit that Petitioners are under impression that the writ Petition is pending in the high court. But in October 2011 when some people tried to disturb the possession of the suit properties then he enquired about the matter then he came to know that though such petition was not filed & Adv. B. C. Kamble expired the long back. The Petitioners state & submit that Petitioners are poor & illiterate person. The Petitioners state & submit that the Petitioners are under bonafide impression that the Writ Petition are pending in the High Court. The Petitioners state & submit that the same fact kn ow to him in the month of Oct.2011. The Petitioner has approached this Hon'ble Court as expeditiously as possible without any latches. The Petitioners have not filed any other application in any other Court of law or in the Supreme Court of India in respect of the same subject matter.”

4. The aforesaid explanation hardly constitutes any sufficient cause. It is not the case of the petitioners that they were unaware of the making of the impugned order dated 06/04/1998. Despite that, the petitioners chose to apply for certified copy only in the year 2011 i.e. after 13 years. That apart, the petitioners are pursuing yet another litigation in the Civil Court against the landlord in the form of a suit seeking permanent injunction. The learned Counsel for petitioners has submitted that the suit was decreed by the Trial Court and the decree was reversed by the Appeal Court. The second appeal instituted by the petitioners has also been dismissed. However, the learned Counsel for petitioners submits that a review petition has been filed and the same is pending. All this indicates that the petitioners were very much aware of the impugned order dated 06/04/1998 and the explanation furnished for the gross and inordinate delay of over 13 years is by no means sufficient.

5. Accordingly, this petition is dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)