

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

CIVIL APPLICATION NO.68 OF 2016

ALONGWITH

REVIEW PETITION STAMP NO.32162 OF 2015

IN

WRIT PETITION NO.6673 OF 2014

Narayan Subrao Patil

.. Applicant

Versus

Balu Sakharam Desai and another

.. Respondents

Mr. V. S. Kapse for the Applicant.

Mr. P P Kulkarni i/by Mr. A. B. Desai for the Respondent No.1.

CORAM : R.M. SAVANT, J.

DATE : 12th JULY 2016

PC.

1. The above Civil Application has been filed for condonation of delay of 3 months and 22 days in filing the above Review Petition. By the above Review Petition, review is sought of the order dated 28.07.2015 passed in Writ Petition No.6673 of 2014, by which order, the said Writ Petition came to be dismissed and resultantly, the order passed by the Maharashtra Revenue Tribunal confirming the order passed under Section 32G of the Maharashtra Tenancy and Agricultural Lands Act (For short "the Tenancy Act") in favour of one Krishnabai came to be confirmed. In

so far as the delay which has occasioned in filing the above Review Petition is concerned, the same is sought to be explained on the ground that the Petitioner was unwell and in support of which two medical certificates have been produced on record. The first certificate is dated 29.10.2015 and is to the effect that the Applicant Narayan Subrao Patil was suffering from Herpez Roster and was under the treatment of the doctor who has issued the certificate 20.07.2015 to 28.10.2015. The second certificate is dated 20.07.2015 wherein the Applicant Narayan Subrao Patil is shown suffering from ante lumber and has been advised bed rest for 60 days.

2 In my view, having regard to the medical certificates, the same do not inspire confidence, the same can hardly justify the delay of 3 months and 22 days in filing the Review Petition. The Civil Application is accordingly rejected.

3 This Court ventured to considered the Review Petition on merits also. On merits, it was the submission of the Learned Counsel appearing for the Appellant that the issue of tenancy was not considered from the aspect of Section 15 of the Tenancy Act which governs the surrender of tenancy. In so far as the order passed under Section 32G of the Tenancy Act is concerned, the said order has been passed on the basis

of the statement recorded of one Subrao Patil who also claims to be a tenant in respect of the same land which Krishnabai is cultivating as also the statement of the landlord which was to the same effect namely that Krishnabai is cultivating the land in question. Hence, once a competing tenant makes a statement that it is Krishnabai who was cultivating the land in question, the applicability of Section 15 of the Tenancy Act would not arise. It is only when the landlord claims that the tenant surrendered the tenancy, then the compliance of Section 15 of the Tenancy Act arises. Hence, on merits also this Court does not find any ground made out which is referable to Order XLVII of the CPC for review of the order. The Review Petition is accordingly dismissed.

[R.M. SAVANT, J]