

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO. 629 OF 2017

1. Sumitrabai w/o Vaman Jadhav
Age 43 years, occ. household
2. Yogesh s/o Vaman Jadhav
age 22 years, occ. agril.
3. Anil s/o Vaman Jadhav
age 26 years, occ. agril

All r/o Tidka, Tq. Soygaon
Dist. Aurangabad.

.. PETITIONER

VERSUS

1. The Superintendent of Land Records
Damdi Mahal, Near Panchayat Samiti
Aurangabad.
2. Vilas s/o Sonaji Jadhav
age 41 years, occ. agril.
r/o Tidka, Tq. Soygaon
Dist. Aurangabad.

.. RESPONDENTS

Mr. M.U. Shelke, advocate for petitioners.
Mr. S.B. Pulkundwar, AGP for the State.
Mr. Shaikh Faruk Vazir Patel, advocate for respondent no. 2.

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CORAM : S. B. SHUKRE, J.

DATE : 24th JANUARY, 2017.

ORAL JUDGMENT :

1. Heard.
2. Rule. Rule made returnable forthwith. Heard finally by consent.
3. It is seen from the impugned order dated 14.12.2016 that even though

there is reference to the application filed for condonation of delay, which was of about 37 years in invoking the powers of the District Superintendent of Land Records under section 32 of the Maharashtra Prevention Fragmentation and Consolidation of Holdings Act, respondent no. 1, who passed the order, did not give due consideration to the grounds given in the application separately filed for condonation of delay. No finding is recorded by respondent no. 1 as to whether or not there was any sufficient cause demonstrated by respondent no. 2 for delay in filing the application under section 32 of the aforesaid act.

4. It is true that section 32 of the said Act does not prescribe any period of limitation but, it has been held in the case of Dattu Appa Patil Vs. State of Maharashtra and others reported in **2007(1) Mh.L.J. 393** that such an application must be filed within a reasonable period of time and this was so by following the ratio of the case of Gulabrao Bhaurao Kakade Vs. Nivrutti. krishna Bhilare and others reported in **2001(4) Mh.L.J. 31**. The Division Bench of this Court also held that ordinarily such reasonable period would be of three years depending upon the facts and circumstances of each case. In any case, when an application seeking condonation of delay is filed, it is necessary for the authority to have it decided by recording specific findings on justification given for delay occurred in the case. That has not been done by respondent no. 1 and he has straight way decided the main application itself by the impugned order. Such an order therefore, would have to be quashed and set aside, it being not in consonance with the settled principles of law.

5. Writ petition is, therefore, allowed. The impugned order is quashed and set aside. The matter is remitted back to respondent no. 1 for deciding afresh in accordance with law and after giving adequate opportunity of hearing to the rival parties. Both the parties are directed to appear before respondent no. 1 on 13th February, 2017. Rule made absolute in above terms. No costs.

(S. B. SHUKRE)
JUDGE

dyb