

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4345 OF 2014

Shahuraj s/o Bapurao Dhirgule
Age 58 years, occup : Agril.,
R/o Dayanand Nagar,
Naldurge Road, Tuljapur,
Tq. & Dist. Osmanabad

.. Petitioner

versus

1. The State of Maharashtra,
Through the Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai
2. Vijaysing s/o Raosaheb Bhosale,
Age : 70 years, occup : Agril.,
R/o Bhosale Galli, Tuljapur
Tq. Tuljapur, Dist : Osmanabad .. Respondents

Mr. Vivekanand V. Ingale, Advocate for petitioner
Mrs. Vaishali N.Patil-Jadhav, Asstt. Govt. Pleader for respondent no.1

CORAM : SUNIL P. DESHMUKH, J.
DATE : 19-12-2017

ORAL JUDGMENT :

1. Heard learned counsel appearing on behalf of petitioner and learned Assistant Government Pleader finally by consent.
2. Petitioner is purportedly aggrieved by order dated 03-07-2013 passed by learned Deputy Commissioner (Ent. Duty), Aurangabad in revision preferred by present petitioner bearing No.

ROR/Rev/467/2012 against dismissal by Additional Collector under order dated 29-08-2012 of appeal at petitioner's instance challenging Sub Divisional Officer's order dated 28-02-2011 in file No. 2010/Appeal/Kawi-628 allowing present respondent no. 2's application for condonation of delay in preferring appeal against of certification of mutation entry no. 514 by Tahsildar, Tuljapur in favour of present petitioner under order/communication dated 03-05-2002 which was given effect to by Naib Tahsildar on 05-07-2004.

3. Perusal of the order passed by the Sub Divisional Officer dated 28-11-2011 gives indication that delay was condoned since, before effecting mutation under entry no. 514 referred to above present respondent no. 2 had not been given notice and as such he had no knowledge of such mutation being requested for. Appeal therefrom had been filed by present petitioner, however, the same had been dismissed by the Additional Collector and revision arising from the same before the Deputy Commissioner (Ent. Duty) had also failed under order dated 03-07-2013 referred hereinbefore.

4. Although learned counsel appearing on behalf of the petitioner Mr. V. V. Ingle, vehemently submits that delay had been erroneously condoned by the Sub Divisional Officer, for, according to him, reasons given for the same and consequently confirmed under order of dismissal of appeal by Additional Collector and and Deputy

Commissioner, are not cogent and are untenable yet, looking at that delay has been condoned in its discretion by the authority of first instance confirmed at first appellate stage and then revisional authority. In effect, challenge posed is to delay condonation, in all the proceedings hitherto and as such decision hitherto may seldom have efficacy farther than that. Civil proceedings are stated to be pending between parties. As such, revenue order will cede to decision thereon. This is not a case wherein it can be said that discretionary powers of this court are required to be invoked.

5. The matter had been pending since 2014 in this court without any order.

6. Under the circumstances, petition is not entertained and is disposed of.

SUNIL P. DESHMUKH
JUDGE

pnd/