

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

WRIT PETITION NO. 9646 OF 2017

Amol Mahadev Hole & Ors.

.. Petitioners

v/s.

Sou. Shashikala Hanumant Raut

.. Respondents

Mr. Chaitanya Nikte for the petitioners

Mr. S.H. Kankal, AGP for respondent State

CORAM : M.S. SANKLECHA, J.

DATED : 5th DECEMBER, 2017

PC.

1. This petition under Article 227 of the Constitution of India challenges :-

(a) the order dated 29th July, 2016 passed by the Sub Divisional Officer (S.D.O.) condoning the delay of 27 years in the respondent no.1 filing an appeal being RTS No.102 of 2015 under Section 247 of the Maharashtra Land Revenue Code (Code) seeking a modification in the mutation entry no.16059; and

(b) the order dated 26th May, 2017 passed by the Additional Collector, rejecting the petitioner's Revision Application under Section 257 of the Act against the order dated 29th July, 2016 passed

by the S.D.O.

2. The order dated 26th May, 2017 passed by the Additional Collector, dismisses the Revision Application on the grounds that no revision would lie against interlocutory orders and that the proceedings before the S.D.O. have not yet been completed. Therefore, the exercise of revisional jurisdiction at this stage may be premature till the appeal itself is finally decided.

3. Mr. Nikte, learned Counsel appearing for the petitioners, on instructions, seeks to withdraw this petition. However, this withdrawal is sought with liberty to file appropriate proceedings from the final order of the S.D.O. in an appeal being R.T.S. Appeal No.102 of 2015 filed by the respondents, including challenging the order dated 29th July, 2016 condoning the delay of 27 years in filing the RTS Appeal No.102 of 2015. Liberty as prayed for is granted.

4. Needless to state that if the petitioners do file an appeal challenging the final order passed in R.T.S. Appeal No.102 of 2015, the same will be decided on its own merits i.e. without being

influenced by the order dated 26th May, 2017 passed in Revision against the order condoning the delay dated 29th July, 2016. This is particularly in view of the fact that the order dated 26th May, 2017 does not deal with the merits of the petitioners' grievance with regard to the condonation of delay *inter alia* on the ground that a final order is yet to be passed in RTS Appeal No.102 of 2015.

5. The Petition is disposed of as withdrawn with liberty as prayed for. No order as to costs.

(M.S. SANKLECHA, J.)