

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

WRIT PETITION NO.7763 OF 2015

Shri. Dhananjay Arun Lokhande and another	..Petitioners
Versus	
Shri. Ratikant Mhasku Kodre and others	..Respondent

Shri. Rakesh P. Saroj for the Petitioners.
Shri. R. S. Apte, Senior Advocate i/by Shri. Sagar Ambedkar for the
Respondent Nos.11 to 13 & 15.

CORAM : R. M. SAVANT, J.
DATE : 20th JANUARY, 2017

PC.

1 The order dated 08.07.2014 passed by the Learned Additional Commissioner, Pune Division, Pune rejecting the Revision Application filed by the Petitioner on the ground of delay is taken exception to by way of the above Petition.

2 The impugned order has arisen out of the RTS proceedings in respect of Mutation Entry No.4347 effected in favour of some of the Respondents herein. The said entry was challenged by the mother of the Petitioners by filing an Appeal before the Sub Divisional Officer, Pune. The Appeal came to be allowed by the Sub Divisional Officer resulting in the Respondents herein filing a further Appeal before the Additional Collector, Pune. The Additional Collector, Pune by his order dated

30.06.2009 allowed the Appeal filed by the Respondents and thereby set aside the order passed by the Sub Divisional Officer dated 04.02.1999 and thereby the Mutation Entry No.4347 in favour of some of the Respondents was confirmed. The Petitioners long after the said order was passed by the Additional Collector, Pune, sought to challenge the same by way of a Revision before the Additional Commissioner, Pune. The said Revision was belated as the Petitioners had filed the same after more than three years of the order being passed by the Additional Collector. The Petitioners filed an application for condonation of delay. In the application there is only a single averment to the effect that the person who was looking after the matter was not feeling well and therefore the Revision could not be filed earlier. Save and except the said averment, there is no explanation for the delay caused in filing the Revision. The Revisionary Authority i.e. Additional Commissioner, Pune Division, Pune considered the said application. The said explanation given by the Petitioners did not commend acceptance to the Additional Commissioner. The Additional Commissioner adverted to the judgment of the Apex Court reported in **2010(2) Mh.L.J.** in the matter of **Santoshkumar Shivgonda Patil Vs. Balasaheb Tukaram Shevale**, wherein the Apex Court has held that since no period of limitation is prescribed for filing a Revision, the same has to be done within a reasonable time and the

reasonable time would be about three years. In the instant case, as indicated above, the Revision was filed after three years after Additional Collector passing the order. The application was virtually sans any reasons, save and except to the extent mentioned hereinabove.

3 It seems that during the course of the RTS proceedings, the Respondents have created rights in favour of the third parties in respect of the land in question as a result of which the Petitioners have filed RCS No.1663 of 1994 for declaration and injunction and application for injunction was filed in the Trial Court which application came to be rejected. As a result, the Petitioners have filed Misc. Civil Appeal in the Appellate Court. It seems that the Petitioners' application for injunction was allowed by the Appellate Court and the said injunction is in operation in the suit. The said order passed by the Lower Appellate Court is dated 06.02.1997.

4 In my view, having regard to the reasons mentioned by the Additional Commissioner in the impugned order as also having regard to the fact that proceedings relating to mutation entry and ultimately if the Petitioners seek to assert their title, they have to do so by filing civil proceedings which in the instant proceedings they have already done, the order passed by the Additional Commissioner does not merit any

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interference from this Court in its writ jurisdiction under Article 227 of the Constitution of India. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]