

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

903 WRIT PETITION NO. 3131 OF 2016

SATISH BHASKARRAO KALE & ORS.

VERSUS

THE SUB DIVISIONAL OFFICER & ORS.

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Mr. S.B.Kadu, Advocate for Petitioners.

Mr. V.S.Badakh, A.G.P. for State.

Mr. S.T.Shelke, Advocate for R – 2 & 3.

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CORAM : V.L.ACHLIYA, J.

DATE : 26th APRIL, 2018

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ORAL ORDER :

1. By this petition filed under Article 227 of Constitution of India, the petitioners have challenged the order dated 28/01/2016 passed by Sub Divisional Officer, Shirdi in Tenancy Appeal No. 106/2016. By the impugned order, learned Sub Divisional Officer has allowed the application seeking condonation of delay in filing Appeal.

2. In nut-shell, it is the contention of learned counsel for the petitioners that no notice and opportunity of hearing was given to the petitioners before passing the impugned order. It is further contended that the order

passed is without any reason and, therefore, liable to be set aside. Learned counsel referred and relied upon the copy of **order dated 26/11/2015 [CORAM : N.W.SAMBRE, J.]** passed in **Writ Petition No. 3534 of 2014 Rajaram s/o Vishnu Gosavi Vs. The Sub Divisional Officer, Shirdi** in support of the contention that the order impugned is liable to be set aside for the reason that the authority concerned has not recorded reasons to allow the application.

3. On the other hand, learned counsel for respondent Nos. 2 and 3 supported the order passed by learned Sub Divisional Officer and pointed out that in the Roznama dated 14/01/2016 and 28/01/2016 produced at Exh. 'I' to the petition, it is clearly mentioned that the petitioners have appeared in the matter through Advocate and also filed reply seeking condonation of delay. On 14/01/2016 when the matter was fixed for hearing, the case was adjourned to 28/01/2016. The respondent has appeared in the matter through Advocate. On the day on which the application was decided, the Advocate representing the petitioners did not appear but filed reply to the application seeking condonation of delay.

4. On due consideration of the submissions advanced in the light of copy of the proceeding produced at Exh. 'I' to the petition, I am of the view that the impugned order calls for no interference. The Roznama of the proceeding clearly spell out that the petitioners have appeared in the matter through their Advocate. On 14/01/2016 the Advocate representing the respondent was present. In his

presence the date was given on 28/01/2016. On 28/01/2016, the Advocate representing the respondent was present. However, the Advocate representing the petitioner though filed reply, not appeared. On due consideration of the submissions advanced in the light of cause assigned in the application, the Sub Divisional Officer has allowed the application seeking condonation of delay. It has been observed in the order that the respondent that he came to know about the order passed which is impugned by way of Appeal on receipt of notice of Tenancy Case No. 24/2013. Learned Sub Divisional Officer on consideration of the cause assigned for condoning the delay, condoned the delay. The order passed can not said to be perverse, arbitrary so as to call for interference in the exercise of writ jurisdiction under Article 227 of Constitution of India. Copy of the order referred and relied upon by the learned counsel for the petitioners has no bearing upon the facts of the case, as in the instant case the reasons have been recorded by learned Sub Divisional Officer. In the facts and circumstances of the case, the impugned order calls for no interference.

5. Writ Petition stands dismissed.

[V.L.ACHLIYA, J.]

