

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.7884 OF 2017
(Tukaram Hari Patil Vs. The Commissioner (Revenue) and others
IN
CIVIL APPLICATION NO.7771 OF 2004
IN
WRIT PETITION NO.4685 OF 1996

Mr.S.P.Shah, Advocate for the applicant.
Mr.V.S.Badakh, AGP for respondent No.1.
Mr.S.S.Shete, Advocate for respondent No.2.

(CORAM : RAVINDRA V. GHUGE, J.)
DATE : 09/02/2018

PER COURT :

1. By this application, the applicant/petitioner prays for condonation of delay of 9 years and 4 months caused in filing this civil application for seeking restoration of CA No.7771/2004, which was dismissed in default. That civil application was filed for bringing the LR's of deceased respondent No.3 Shankar Rajaram Thakare, on record.

2. Learned Advocate appearing on behalf of respondent No.2 Ram Singh, submits that he is the tribal, who had sold the land to deceased Shankar, who in turn sold it to the petitioner. *Suo-motu* proceedings have been initiated by respondent No.1 and it would be respondent No.2 Ramsingh who will be benefited if the Commissioner

directs restoration of the land under the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974.

3. Learned Advocate for the petitioner submits that the issue in the petition therefore is as to whether respondent No.1 / Commissioner could initiate proceedings *suo-motu* after 9 years of the order of the Collector and whether respondent No.1 could now take away the land from the petitioner and vest it in respondent No.2 Ramsingh. Deceased Shankar has already taken the money and is no longer alive and is not the contesting respondent.

4. Considering the above, I do not find that any purpose would be served by condoning the delay of 9 years and 4 months in this civil application so as to restore the CA No.7771/2004 for bringing LR's of Shankar on record, who is not a contesting respondent.

5. This civil application is, therefore, rejected.

6. List WP No.4685/1996 for final hearing by consent of the parties, on 15/02/2018.

(RAVINDRA V. GHUGE, J.)