

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7402 OF 2016

ASHOK RAKHMAJI PATIL AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioners : Shri D.R. Jayabhar.
AGP for Respondent Nos. 1 & 2 : Shri S.K. Tambe.
Advocate for Respondent No. 3 : Shri N.B. Khandare.

CORAM : RAVINDRA V. GHUGE, J.
Dated : 18th January, 2018

PER COURT :

1. The petitioners are aggrieved by the order dated 12/04/2016, passed by the District Superintendent of Land Records, Ahmednagar, by which, the Appeal No. 104/2015, filed by respondent No. 3/original appellant seeking condonation of delay of 33 years has been allowed.
2. While issuing notice on 18/08/2016, this Court has stayed the further proceedings and directed the parties to maintain status quo.
3. Learned counsel for the petitioners has strenuously criticized the impugned order contending that the correction in the City Survey of 1981, is now being sought after a period of 33 years. It is, further, contended that the road in front of the plots of the

petitioners Nos. 28, 29 and 30, would be encroached upon by respondent No. 3, who are planning to erect a construction on plot Nos. 649 and 650. They have designed to close the road and practically land lock the petitioners.

4. Shri Khandare, learned advocate has tendered across the Bar, an enlarged copy of the document which is at page Nos. 90 and 91. It is a part of the register maintained by the Nagar Bhoomapan, with regard to Mauje Chapadgaon. Shri Khandare, points out from column No. 3, that the size of the plot No. 650 is erroneously mentioned as 47/25 square meters and plot No. 649 is shown as 94/4 square meters. The correct size of the plots are mentioned in column No. 13. As such, the discrepancy is between the entry in column No. 3 vis-a-vis, the entry in column No. 13. The enlarged copy submitted by him has been taken on record and marked as 'X' for identification and it would be a part of this order. Typed copy of the same is at page No. 42. Shri Khandare, submits that though these entries were taken as long back as in 1981, it is only when respondent No. 3 decided to raise/erect a construction on plot Nos. 649 and 650, that he obtained the copies of the relevant records, so as to prepare his file for seeking construction permission.

5. The map on page No. 92, and the entries in the Nagar

Bhoomapan Chaukashi Nondvahi "X" brought to light the discrepancy which was never known to respondent No. 3 till 2015. Hence, the appeal was filed only for the purpose of correcting the entries in column No. 3, of the Nagar Bhoomapan Chaukashi Nondvahi.

6. With the assistance of Shri Khandare, who stated on instructions, I have marked two roads in red pencil on page No. 92, on the petition paper book which is an enlarged map of Nagar Bhoomapan Aalekh No. 2, Chapadgaon, Shevgaon, Ahemednagar. The directions are also marked in the map by me with the assistance of Shri Khandare, on the bottom left side of page No. 92. As such, a small road divides the plots of respondent No. 3 which are 649 and 650 and the plots of the petitioners which are numbered as 28, 29 and 30.

7. Shri Khandare makes a statement, on instructions, that the road in between the plots of the petitioners and respondent No. 3, will not be affected by the clerical/numerical corrections sought by respondent No. 3 in the document 'X' at column No. 3. Neither would the size of the two plots owned by respondent No. 3 be increased, nor would the road in between the properties of the petitioners and respondent No. 3 would be reduced, much less

causing any reduction in the size of the plots of the petitioners. The large road on the south side behind plot Nos. 649 and 650, is the State Highway.

8. There can be no dispute that the delay of 33 years cannot be easily condoned. However, it cannot be ignored that the plots of respondent No. 3 were idle and only when respondent No. 3 decided to commence a construction that he applied for various documents for preparing his file and it was then that he noticed that there was an error in column No. 3 of document 'X'. This was the cause for seeking a numerical correction for mentioning the correct size of plot Nos. 649 and 650 in the Nagar Bhoomapan Chaukashi Nondvahi.

9. Shri Jayabhar, learned advocate for the petitioners submits that, if the internal road is not going to be affected and if the sizes of the plots of the petitioners are also not to be touched, the petitioners would have no objection as long as the statement made by respondent No. 3 which is recorded as above, is maintained.

10. Considering the above, this petition is disposed of.

11. Learned counsel for the petitioners and the respondents

submit, on instructions, that they would appear before the District Superintendent of Land Records, Ahmednagar, in the appeal filed by respondent No. 3, on 05/02/2018, at 3.00 p.m. Considering the same, the request is accepted and formal notices need not be issued by respondent No. 2. The petitioners would be at liberty to express their grievance before the concerned authority while it considers the main appeal of respondent No. 3, with reference to the correction in the Nagar Bhoomapan Chaukashi Nondvahi, in the event the petitioners feel that their rights are likely to be affected.

(RAVINDRA V. GHUGE, J.)

S.P.C.