

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION 5681 OF 2018
IN
REVIEW APPLICATION STAMP NO. 35906 OF 2017
IN
WRIT PETITION NO. 3199 OF 2008

SUMERSING SURUPSING PADVI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Applicant : Mr. S.C. Yeramwar.
AGP for Respondent Nos. 1 to 4 : Mr. B.A. Shinde.
Advocate for Respondent No. 5 : Mr. P.D. Bachate.
Advocate for Respondent No. 6 : Mr. D.S. Bagul.

CORAM : RAVINDRA V. GHUGE, J.
Dated : 28th September, 2018.

PER COURT :

1. The applicant, who was the original respondent No. 6 in the Writ Petition, prays for condonation of delay of eight years and nine months, caused in filing the Review Application
2. The applicant contends that he and his real brother respondent No. 5/Surendrasingh in the Writ Petition, were misled by the petitioner Premnath and based on a misrepresentation, they entered into a compromise on 20/10/2008 in Writ Petition No. 3199/2008. The land of the father of the applicant and his brother was transferred to Premnath, who is a non tribal. The said transfer

was prohibited as it would amount to transferring of a land of a Tribal to a non Tribal. Certain orders were passed by the Revenue authorities and Premnath, being aggrieved by such orders, had approached this Court in Writ Petition No. 3199/2008, and had put forth the following prayer in paragraph No. 12 (B) :

“B. By writ of Certiorari or any other appropriate writ, order or directions in the like nature, the impugned judgment and order dated 19/04/2008, passed by the Ld. President, Maharashtra Revenue Tribunal, camp at Aurangabad, in Appeal No. 46/2002, thereby confirming the impugned order of restoration of possession to the tribal respondent Nos. 5 and 6, passed by the Ld. Assistant Collector, Taloda, dated 15/03/2002, in File bearing No. Marathi No. Jamin/KV/778, may kindly be quashed and set aside.”

3. It is then submitted that though the matter was settled between the parties, this settlement was under a misrepresentation by Premnath. Consequentially, it was recorded that the transfer of the land to Premnath by the father of these two persons was acceptable to these brothers. Further grievance is that the terms of compromise dated 20/10/2008 mentioned that these two brothers admitted that their father Surupsing ceased to be a tribal as he has converted to the Muslim religion.

4. It is then contended that after the compromise, when these two brothers realized that a fraud was played on them, the applicant alone moved the Superintendent of Police, Nandurbar, with a complaint on 14/05/2015. Thereafter, he resorted to an agitation. The applicant then approached Mr. Eknath Khadse, Revenue Minister of the State of Maharashtra, with a similar complaint on September, 2015. He then resorted to agitation of a hunger fast and when he realized that he is not likely to get justice, he approached this Court by filing the Review Application. These reasons are assigned in support of the prayer seeking condonation of delay of eight years and nine months.

5. Learned counsel for the original petitioner Premnath submits that this application and the Review Application is driven with a motive of exerting pressure on the original petitioner for extracting consideration. This applicant and his brother agreed to settle the matter with Premnath out of the Court. After the settlement terms were accepted by these two brothers, the compromise terms were drafted. The compromise terms were verified and sworn in the presence of the Registrar of this Court and in the presence of the learned advocates. Pursuant to the compromise terms, Writ Petition No. 3199/2008, was disposed of. Thereafter, the

petitioner Premnath disposed of the property by a sale deed in favour of one Mr. Suresh Jain, who in turn then sold the land to one Mr. Sandeep Bhansali. The land ad-measuring 1 Hectore 11 Ares was then converted from an agricultural land into a non-agricultural land by following the due procedure. Plots were drawn in the said land and all these plots are now sold to individuals.

6. He, further, submits that it is only the applicant who is before this Court. His brother Surendrasingh, who entered into the settlement and compromise along with this applicant, still stands by the compromise terms and does not complain. With an ulterior motive, this applicant has filed the application under the belief that pendency of these proceedings would work as a pressure on the original petitioner. Probably, the applicant desires to extract consideration.

7. Having considered the rival submissions of the learned advocates for the respective sides, I find that the issue in Writ Petition No. 3199/2008 was with regard to the judgment of the Maharashtra Revenue Tribunal in Appeal No. 46/2002. The applicant and his brother were before the registrar when the terms

of the compromise were verified. They were administered oath for verification in the presence of their advocates. Based on such compromise, the land has then changed hands and there was no complaint from the applicant or his brother.

8. I find that the reasons set out by the applicant for seeking condonation of delay of eight years and nine months in filing the Review Application are not adequate and convincing so as to condone the delay.

9. This application is devoid of merit and is therefore, rejected.

(RAVINDRA V. GHUGE, J.)