

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13649 OF 2018

REVAJI KARBHARI WALUNJ
VERSUS
THE HON'BLE MINISTER FOR STATE REVENUE AND FOREST
MUMBAI AND OTHERS

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Advocate for Petitioner : Mr. Gawali Amol K.
AGP for Respondents 1 to 4: Mr. S.W. Munde
Advocate for Respondent No.6 : Mr. P. R. Katneshwarkar h/f Mr. S.R. Andhale

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CORAM : N. M. JAMDAR, J.
DATED : 10 DECEMBER 2018

ORAL ORDER :-

1. Heard the learned counsel for the parties. Taken up for disposal.
2. The petitioner has challenged the order passed by the learned Revenue Minister dated 23 October 2018 in proceeding initiated under the provisions of Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947 (for short referred to as "the said Act").
3. The petitioner had earlier filed writ petition No. 1542 of 2016 in this court challenging the order dated 23 July 2015 passed by the Deputy Director of Land Records. By the said order, the Deputy Director of Land Records had entertained the application filed by respondent Nos. 4 and 5 therein questioning the consolidation scheme

framed under the said Act. The petitioner had made a grievance that the scheme was sought to be questioned after delay of 45 days. The learned Single Judge of this Court referred to the earlier decisions of this Court holding that though there is no limitation for questioning the consolidation scheme, such application must be made within reasonable time. The learned Single Judge accordingly disposed of the writ petition directing the parties to appear before the Deputy Director, who was to pass a reasoned order in the application for condonation of delay. Thereafter, the Deputy Director by order dated 20 July 2018 rejected the application for condonation of delay by detailed order giving various reasons. According to the Deputy Director, the delay was not reasonable. The learned Minister, by the impugned order, has condoned the delay and set aside the order dated 20 July 2018 and directed that the necessary corrections be carried out under Section 32(1) of the said Act.

4. The order passed by the learned Minister is completely unreasoned. The learned Minister has reproduced the contentions of the parties and in one line has stated that considering the facts, there is error in the scheme and even though the application questioning the consolidation scheme was delayed, the scheme needs to be varied.

5. Not only the order is completely unreasoned, it is contrary to the direction of this Court to give reasons. This direction is clear. The aspect of condonation of delay has to be considered after giving reasons, be that by any authority. If the period of limitation is prescribed, then the matter is different. But in absence of such

stipulation, to decide the question of reasonable period there has to be application of mind to the facts of the case and there must be a conscious decision that delay was justifiable and not unreasonable. If such conscious application of mind is not to be found in the decision, the decision is vitiated. The learned counsel for the respondent Nos. 5 and 6 sought to advance the contentions on the merits of the case. However, since the impugned order is unreasoned and contrary to the direction of this Court, it will have to be set aside.

6. Accordingly, the order passed by the learned Minister dated 23 October 2018 is quashed and set aside. The proceedings filed by respondent Nos. 5 and 6 before the Minister is restored to the file. The learned Minister will decide the matter on its own merits after giving reasons, considering that he is exercising the quasi judicial functions under the provisions of the said Act.

7. The learned Minister, if there are no other time bound commitments, will make endeavour to dispose of the proceedings at the earliest.

8. The writ petition is disposed of in the above terms. All contentions are kept open.

(N. M. JAMDAR, J.)

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