

DDR

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10358 OF 2016

Vijay Gajanan Bhokare & ors. ...Petitioners
Vs.
Smt. Indubai Shankar Nalavade & anr. ..Respondents

....
Mr. Umesh R. Mankapure for the petitioners
Mr. P.G. Kathane for respondent No.1.
Mr. S.D. Rayrikar, AGP – State.

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CORAM : M.S.KARNIK, J.

DATE : 3rd DECEMBER, 2018.

P.C. :

This Petition is filed under Article 227 of the Constitution of India challenging the order dated 9th May, 2016 passed in Application No. 1749 of 2014 which is the application filed for condonation of delay in presenting the Appeal before the District Superintendent of Land Records. Learned Counsel for the petitioners inviting my attention to the impugned order as well as the application for condonation of delay submitted that except for stating that the respondent is illiterate and she did not get knowledge of the Mutation Entries, no other reasons have been stated for the delay caused. In his submission, the Appellate Authority has not at all given any reasons for condoning the delay of 26 years in filing the Appeal.

2. Learned Counsel for the contesting respondent supported the impugned order. According to him, the respondent No.1 has a very good case on merits and therefore, there is no reason to interfere with the order condoning the delay.

3. I have gone through the impugned order. Except for stating that the matter needs to be heard on merits and therefore the delay deserves to be condoned, the Appellate Authority has not given any reasons while condoning the delay of 26 years in filing the Appeal. No doubt, some reasons have been given by the respondent No.1 in the application for condonation of delay. The Appellate Authority, however, has not adverted to any of the reasons stated by the respondent No.1 in her application for condonation of delay. In this view of the matter, I am inclined to set aside the impugned order on the ground that the same is not a reasoned order.

4. Learned Counsel for the respondent No.1 requests that he may be permitted to file an additional application / affidavit setting out further grounds for condoning the delay in filing the application. Hence I pass the following order :

ORDER

- i) The impugned order dated 9th May, 2016 passed in Application No. 1749 of 2014 is quashed and set aside.
- ii) Application No. 1749 of 2014 filed in Appeal is remitted back to the District Superintendent of Land Records, Sangli, for considering the same afresh on its own merits and in accordance with law within a period of 8 weeks from the date of appearance of the parties.
- iii) I may not be understood to have expressed any opinion on the merits of the application and the District Superintendent of Land Records is free to decide the application on its own merits without being influenced by any observation made by me.
- iv) The parties are at liberty to file additional pleadings.
- v) The parties to appear on 13th December, 2018, at 11.00 a.m. before the Appellate Authority, when further schedule can be fixed.
- vi) The Petition stands partly allowed in the above terms.

(M.S.KARNIK, J.)