

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO. 1997 OF 2014****Chahu Kalya Patil****..... Petitioner****VERSUS****Sub-Divisional Officer, Alibaug & Ors. Respondents**

Mr.R.D.Soni, a/w. Mr.Sujay Gawade, i/b. M/s.Shree & Co. for the Petitioner.

Ms.K.N.Solunke, A.G.P. for the State – Respondent nos. 1, 2 and 4.

Mr.G.J.Sabnis for the Respondent no.3.

CORAM : R.D. DHANUKA, J.

DATE : 7th FEBRUARY, 2018

P.C.

By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 15th January,2014 passed by the Member, Maharashtra Revenue Tribunal, Mumbai dismissing the revision application No. TNC/REV/159/B/2007 filed by the petitioner.

2. It is the case of the petitioner that the father of the petitioner was cultivating the land in question prior to 1st April,1957. H died leaving behind him three sons including the petitioner and one daughter and wife. The petitioner was minor on the date of the death of his father. The names of all the family members excluding the petitioner was mutated in respect of the land in question.

3. On 20th May, 1973, the Additional Tahsildar passed an order recording the statement made by the mother of the petitioner that she was not holding the suit land as a tenant and was not in possession of the suit land and was not willing to purchase the same. In view of the said statement made by the mother of the petitioner, the learned Additional Tahsildar closed the said proceedings initiated under section 32G of the Bombay Tenancy and Agricultural Lands Act.

4. Based on the said order passed by the Additional Tahsildar, the mutation entries in respect of the land in question was changed. The said order was passed on 4th November, 1974.

5. The petitioner became major after four years of the order passed by the Additional Tahsildar. The petitioner however made an application for copies of the records for the first time after 21 years before the concerned authority. The records however could not be furnished as demanded by the petitioner as the same were not available. The petitioner thereafter filed an application which was converted into tenancy application and was remanded to the Sub-Divisional Officer. The Sub-Divisional Officer passed an order against the petitioner.

6. Being aggrieved by the said order, the petitioner filed a revision application before the Maharashtra Revenue Tribunal. Both the authorities below have considered the statement made by mother of the petitioner before the Additional Tahsildar and has held that the mother of the petitioner was not in possession of the land in question and had

made statement not to purchase the property under the provisions of section 32G of the Bombay Tenancy and Agricultural Lands Act.

7. A perusal of the impugned order passed by the MRT indicates that the Tribunal has considered the additional fact that the petitioner had not made any application for condonation of delay before the Sub-Divisional Officer. The sub-divisional officer thus could not have entertained the said revision application.

8. Mr.Soni, learned counsel for the petitioner does not dispute that no application for condonation of delay was made by the petitioner before the Sub-Divisional Officer.

9. In view of the fact that the matter pertains to the year 1973, the records were not maintained by the authority. The only document which could be made available for consideration of the Sub-Divisional Officer as well as for the MRT was the order passed by the Additional Tahsildar recording the statement made by the mother of the petitioner.

10. Learned counsel for the respondent no.3 submits that neither the mother of the petitioner nor the petitioner was even in possession. The development has already started on the suit plot. He submits that the findings of fact rendered by the two authorities are not perverse and thus cannot be interfered with by this court.

11. The petitioner admittedly had become major after four years of the order passed by the Additional Tahsildar. The petitioner

independently did not make any application for purchase of the property under section 32G of the Act after he became major. The application for copy of records and proceedings was also made after 21 years. In my view, since there was no application for condonation of delay made by the petitioner before the Sub-Divisional Officer, the authority could not have dealt with the matter on merits and could not have assume jurisdiction without condoning the delay if any.

12. A perusal of the record indicates that the petitioner was sleeping over his alleged right for more than two decades. The property is already partly developed. In these circumstances, I am not inclined to interfere with the impugned orders passed by the Sub-Divisional Officer as well as by the MRT. The findings rendered by the two authorities being not perverse, cannot be interfered with by this court in this petition filed under Article 227 of the Constitution of India.

13. The petition is devoid of merits and is accordingly dismissed. No order as to costs.

[R.D. DHANUKA, J.]