

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4512 OF 2019
(Shahuraj s/o Dagduba Patil, died, through LR's Vs. Dharma Vithoba
Raut, died, through LR's)

Mr.S.S.Dixit h/f Mr.V.V.Deshmukh, Advocate for the petitioners.
Mr.N.T.Bhagat, AGP for respondent Nos. 3 and 4.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 28/06/2019

PER COURT :

1. This matter was heard at length on 18/06/2019 and was adjourned only to enable the learned Advocate for the petitioners to place on record a copy of the application seeking condonation of delay of 34 years.

2. Learned Advocate has placed before me a copy of the said application for condonation of delay.

3. The grievance of the petitioner is that his father Shahuraj was mentally ill and subsequently passed away in 2006. Grievance is raised about a mutation entry No.100, which is drawn on 23/11/1962. Grievance is also voiced about another mutation entry, which was carried out on 03/11/1979. Grievance about the

mutation entry no.100 is raised in 2013 after 51 years and as regards mutation entry No.48, after 34 years. The application for condonation of delay has been disallowed by the order of the Hon'ble Minister dated 21/08/2018 and the order of the Additional Commissioner dated 29/08/2016 has been quashed and set aside.

4. Learned Advocate for the petitioner has strenuously canvassed that a fraud vitiates all actions and especially if the revenue authorities are party to such fraud. I have no hesitation in agreeing with the learned Advocate. However, considering the law on condonation of delay and especially in the light of the judgments delivered by the Hon'ble Apex Court in the matter of Collector, Land Acquisition Anantnag and another Vs. Mst. Katiji and others [(1987) 2 SCC 107] and Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy and others [2013(12) SCC 649], the delay must be properly explained and the judicial conscience of the Court must be convinced that the delay deserves to be condoned.

5. It is an anathema to show misplaced sympathy and condone a delay without there being any proper explanation. No doubt, each day's delay need not be explained. However, if, as like the case in hand, if the delay is of 50 years with regard to one mutation entry

and 34 years with regard to another mutation entry, the petitioner must cite such reasons which would convince the Court that the reasons assigned are justifiable.

6. In the delay condonation application, the petitioner has sought to challenge the mutation entry Nos.100 and 48, after a passage of 51 years and 34 years respectively. The only reason assigned is that the father of the petitioner was of an unsound mind and was taking treatment from 1980. It is then stated that a fraud was played on the father of the petitioner, which was discovered on 26/02/2013. Not a single circumstance is set out to indicate as to how the petitioner noticed the said fraud in 2013. There is not a whisper of an explanation.

7. Considering the above, this petition, being devoid of merit, is therefore dismissed.

(Ravindra V.Ghuge, J.)