

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2089 OF 2019

Ushabai Raghunath Chavan ...Petitioner

Versus

The State of Maharashtra
& others ...Respondents

...

Mr. Rajendra B. Dhakane, Advocate for petitioner
Mr. G. O. Wattamwar, Assistant Government Pleader for
respondents 1 to 3.

...

CORAM: SUNIL P. DESHMUKH, J.

Date: 14th February, 2019

ORDER :

1. Heard learned counsel for petitioner and learned Assistant Government Pleader for respondents no. 1 to 3.

2. Learned Assistant Government Pleader submits that alternate remedy under Maharashtra Land Revenue code, 1966 is available since ultimately it is the decision on application for delay condonation in filing RTS appeal which is sought to be challenged.

3. Though, such is the submission on behalf of learned Assistant Government Pleader, grievance of the petitioner

appears to be that order impugned is passed without hearing petitioner and under the same, not only delay condonation application has been rejected but the revision application itself is dismissed without notice to petitioner.

4. According to learned counsel for petitioner, since order apparently appears to be in breach of principles of natural justice inasmuch as petitioner was not put to notice before passing said order, the same would not be sustainable and deserves to be set aside and application needs to be restored.

5. Having regard to aforesaid and on perusal of impugned order, it appears that while the application had been moved on 24th September, 2018, seeking condonation of delay, the same had been rejected immediately on 27th September, 2018, finding it is beyond prescribed period of five years having regard to section 257 of the Maharashtra Land Revenue Code, 1966.

6. In the circumstances, instead of driving petitioner to prosecute alternate remedy, it would be expedient that impugned order is set aside and the application is restored

to its position as had been subsisting immediately before impugned order dated 27th September, 2018, particularly, when learned counsel for petitioner submits that even no notice of the proceeding had ever been issued to respondent no. 4.

7. Accordingly, writ petition is partly allowed. Impugned order is set aside. Application for delay condonation in the proceedings before the authority is restored for decision thereon afresh.

[SUNIL P. DESHMUKH, J.]