

BDP-SPS

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 14230 OF 2017**

Nitin Haribhau Bagal

..... Petitioner.

V/s

The Additional Commissioner
Pune Division, Pune
and Others

..... Respondents.

Mr. S.B. Deshmukh I/b Mr. Sachin Deokar for the Petitioner.
Mr. Mahadeo A. Choudhari for Respondent No.4.
Mr. Laxman Deshmukh I/b Mr. Rupesh Zade for Respondent No.5.
Mr. C.D. Mali, AGP for Respondent Nos. 1 to 3.

CORAM: NITIN W. SAMBRE, J.

DATE: 19th July, 2019

P.C.:-

1] The case of the Petitioner is that the property in question was mortgaged to the Respondent – Bank, part of the same was purchased by him on 24/03/2005. According to him, based on the said registered Sale Deed, Mutation Entry is entered into in the name of the Petitioner which was upset by the Sub-Divisional Officer after ordering condonation of delay on 11/03/2015.

2] The submission is, there being no notice to the Petitioner or an application in support of prayer for condonation of delay, order of condonation of delay is passed and Mutation Entry in favour of the Petitioner is modified. According to him, subsequent challenge to the said order passed by the Sub-Divisional Officer before the Collector and Commissioner is also not sustainable, as both these authorities have failed to consider the ground that, in the proceedings before the Sub-Divisional Officer, the order of modification of Mutation Entry in favour of the Petitioner was at delayed stage and that too without hearing the Petitioner. The learned Counsel for the Respondents, in response to the aforesaid submission, concedes the position that the Petitioner was not heard by Sub-Divisional Officer on the issue of condonation of delay.

3] In view of above, the order impugned dated 23/08/2017 passed by the Additional Commissioner, Pune, the order of Additional Collector, Solapur passed on 17/11/2016, thereby dismissing the Revision preferred by the Petitioner and the order of Sub-Divisional Officer passed on 11/03/2015 and the order dated 27/09/2018

passed by the Sub-Divisional Officer are hereby quashed and set aside. The proceedings are restored to the file of Respondent-Sub-Divisional Officer, who shall offer an opportunity of hearing to the respective parties on the issue of condonation of delay also and shall pass a fresh order in the matter. All questions are kept open.

4] Petition stands partly allowed in the aforesaid terms.

(NITIN W. SAMBRE, J.)