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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 12636 OF 2017

Suraj Ramesh Parmar (since Deceased)

Through Legal Heirs

1. Smt. Fulwanti Ramesh Parmar

and Others

...Petitioners

Versus

Shri. Kewal Kishan Monga And Ors.

..Respondents

Ms. Gauri Godse for the Petitioners.

CORAM: NITIN W. SAMBRE, J.

DATE: 26th July, 2019

P.C.:-

1] The order impugned is passed by the Maharashtra Revenue Tribunal ("MRT"), condoning delay caused in preferring Revision Application No.56/B/2004. The relevant observations of MRT are as under:-

"The merits of SDO's order questioned in the revision need not be discussed. However, the order depicts that it was a suo motu revision and

notices were issued to the parties who were to adversely get affected, however, none of the parties appeared before the Ld. Sub-Divisional Officer, and consequently, exercising his revisional powers questioning the orders dt. 15/11/1988 of the A.L.T., he set aside the same on 30th April, 1993.”

“The knowledge imported to the revision applicant as his remarks is reflected only for the first time on 7th April, 2004 and consequent thereupon he applied for certified copy. The delay apparently is exorbitant of 11 years. But the circumstances present a catalogue that the revision applicant was prevented from knocking for relief (Maharashtra Revenue Tribunal). It cannot be said and even generated from record that the revision applicant desired to kill the time to question the order of Sub-Divisional Officer dt. 30Th April, 1993. The chequered history of taking the mater to Hon'ble High Court or Maharashtra Revenue Tribunal, the delay should not eclipse the rights canvassed and projected by the respective parties in the revision. Hence the delay in preferring the revision is condoned. The revision applicant to pay costs of Rs 5000/- to the

contesting respondent within eight days.”

“It is agreed by the Ld. Advocates appearing for all the parties that now, all the revision applications should be clubbed together, to be heard finally.”

2] The learned Counsel for the Petitioner, while questioning the aforesaid order, condoning delay of almost 11 years, would urge that the order impugned is not sustainable on merit for the reason that the Respondent/original Revision Applicant was aware of pendency of *suo motu* proceedings under Section 76 of the Maharashtra Tenancy and Agricultural Lands Act (For short “the Act”). According to her, Sub-Divisional Officer (“SDO”) in the said *suo motu* proceedings, has issued notices to the Respondent/Revisional Applicant in whose favour order under 32-G proceedings was passed. According to her, while condoning inordinate delay of 11 years, the MRT has not dealt with the issue of issuance of notices and knowledge to the Respondent/Revisional Applicant about pendency of *suo motu* proceedings before SDO.

3] I have perused the order which was passed by Revisional Authorities on 30th April, 1993. In the said order, SDO, while exercising *suo motu* powers under Section 76 of the Act, has observed that the Respondent – Monga was not residing at the Village. In that view of the matter, perhaps, notices which were issued to the said Respondent, were not served upon him.

4] Apart from above, the fact remains that the order which is under challenge in Revision wherein delay of 11 years is caused, was not served on the Respondent-Original Applicant. The MRT was sensitive to the aforesaid issue while passing the order of condonation of delay and as such, condoned the delay, subject to payment of costs.

5] It is also worth noting that the Revision at belated stage was filed by the Respondent/original Applicant on 21/06/2004 whereas Petitioner has purchased the land in question on 26/04/2006 i.e. subsequent to the presentation of Revision Application against the Order of SDO passed on 30th April, 1993. As such, on the date when the Revision was filed, Petitioner was not in picture. As such, his

right to question the order on the ground of delay is also required to be appreciated.

6] In the aforesaid background, in my opinion, no case is made out for interference. Petition fails and the same stands dismissed.

7] Interim order to continue for a period of six weeks.

(NITIN W. SAMBRE, J.)