IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Writ Petition No.4613 of 2018
(Masjid Sansthan, Ralegaon, Dist. Yavatmal .vs. Sub Divisional Officer, Ralegaon and ors.)

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.

Mr. A.S. Dhore, Advocate for Petitioner.
Mr. A.R. Chutke, AGP for Respondent Nos. 1 & 2.
Mr. A.P. Chaware, Advocate for Respondent Nos. 3 to 8.

CORAM : Manish Pitale, J.
DATED : February 6, 2019.

By this writ petition, the petitioner has challenged order dated 22.01.2018 passed by the respondent no.1- Sub Divisional Officer, condoning delay of about four years in filing an appeal. The petitioner has also challenged order dated 07.07.2018 passed by the said respondent whereby an application for review filed by the petitioner stood rejected.

2. In the present case, one Kavdu Bapurao Nehare had filed an application under the provisions of the Maharashtra Tenancy of Agricultural Lands (Vidarbha Region) Act, 1958 for being declared as a tenant and for grant of purchase certificate in respect of immovable property. This application was rejected on 20.04.2013 by the Tahsildar. The appeal before respondent no.1 -Sub Divisional Officer was filed after about four years i.e. beyond the period of limitation. By the impugned order dated 22.01.2018, delay in filing the appeal has been condoned by a one line order.

Aggrieved by the same, the petitioner had filed review application, which also stood rejected by a cryptic order dated 07.07.2018 passed by the respondent no.1.

3. It is contended by the learned counsel appearing for the petitioner that the impugned orders deserved to be set aside on the short ground that while condoning delay by order dated 22.01.2018, there were no reasons assigned for condoning delay of about four years. There was nothing on record to show that proper hearing was granted to the parties before the order was passed. As regards the impugned order dated 07.07.2018, it was submitted that the order was cryptic and the review application was dismissed without considering the grounds raised in the said application.

4. The learned counsel appearing for respondents nos. 3 to 8 submitted that even when the order dated 20.04.2013 was passed by the original authority i.e. the Tahsildar, the original applicant Kavdu had already expired. In these circumstances, it was submitted that proper steps were required to be undertaken in the matter.

5. Mr. A.R. Chutke, learned AGP has appeared on behalf of respondent nos. 1 and 2.

6. Considering the fact that the impugned order dated 22.01.2018 is only a one line order whereby delay of about four years has been condoned and there is no discussion regarding the grounds on which the delay has

been condoned, the said order deserves to be set aside. Similarly, the impugned order dated 07.07.2018 is also a cryptic order and there is no detailed discussion in the order while rejecting the review application. The fact of the said Kavdu had expired even before the Tahsildar had passed the order dated 20.04.2013 shows that it would be necessary for the parties to take appropriate steps before respondent no.1.

7. In these circumstances, it would be appropriate that the impugned orders are set aside and the matter is remitted to the respondent no.1 for fresh consideration. Accordingly, the writ petition is partly allowed, the impugned orders dated 22.01.2018 and 07.07.2018 passed by the respondent no.1- Sub Divisional Officer are quashed and set aside. The parties are relegated to the respondent no.1 for fresh consideration of the application for condonation of delay and further such applications that may be filed by the parties in the proceedings pending before the respondent no.1. The parties are directed to appear before the respondent no.1 on 01.03.2019.

8. Writ petition is disposed of.

JUDGE

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