

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH NAGPUR

WRIT PETITION NO.7908/2017

Shravan Bhagwanji Ambatkar ..VS.. Nitin Deorao Khanke & Oth

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

Court's or Judge's orders

Shri V. A. Bramhe, Advocate for the petitioner
Shri A. B. Tikle, Advocate for the respondent Nos.1 & 2
Shri K. L. Dharmadhikari, AGP for the respondent Nos. 3 & 4

CORAM : Z.A.HAQ, J.

DATED : 04/09/2019

Heard.

2] By the impugned order, the Additional Commissioner has condoned the delay of about 4 years and 10 months in filling appeal under Section 247 of the Maharashtra Land Revenue Code. The petitioner contends that respondent Nos. 1 and 2 were aware about the fact that the encroachment of the petitioner has been regularized, in as much as the proclamation was issued by the Tahsildar on 16th August 2011 and still the respondent Nos. 1 and 2 had not taken any steps to participate in the proceedings before the Collector.

3] After going through the impugned order I find that the learned Additional Commissioner has considered all the relevant facts and after examining the evidence produced before him, has accepted the claim of the respondent Nos.1 and 2 that they got knowledge about the regularization of encroachment of petitioner in the

year 2016 and immediately they took steps to collect the documents and challenged the order passed by the learned Collector. The petitioner has not been able to point out any perversity in appreciation of evidence on record, by the Collector.

4] The petitioner contends that the Additional Commissioner should not have adverted to the merits of the matter while considering the application filed by the respondent Nos.1 and 2 under Section 251 of the Maharashtra Land Revenue Code praying for condonation of delay. To support the submission, reliance is placed on the judgment given in the case of *Commissioner, Nagar Parishad, Bhilwara .v/s. Labour Court, Bhilwara & Anr.* reported in **AIR 2009 SC (Supp) 195**. The proposition laid down in the above referred judgment is well settled, however, the judgment does not support the petitioner inasmuch as in the present case it cannot be said that the learned Additional Commissioner got swayed by the merits of the matter. The learned Additional Commissioner has referred to the merits of the matter only for the purpose of referring the facts of the case.

In view of the above I am not inclined to interfere with the impugned order. Writ petition is **dismissed**. In the circumstances, parties to bear their own costs.

(Z.A.HAQ, J.)