

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.726 OF 2020
WITH WP/727/2020 WITH WP/728/2020 WITH WP/729/2020
WITH WP/730/2020 WITH WP/731/2020 WITH WP/732/2020
WITH WP/733/2020 WITH WP/734/2020 WITH WP/735/2020
WITH WP/736/2020 WITH WP/737/2020

RAMDAS SITARAM MOHITE
VERSUS
SHASHIKALA RAMRAO PALSHIKAR THROUGH LRS

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Advocate for Petitioner : Shri Choukidar S.R.
Advocate for Respondent 1-a to 1-d in WP/726/2020 :
Shri Natu Sharad V.
AGP for Respondent 2 : Shri Bhagat N.T.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: March 06, 2020

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PER COURT :-

1. By these petitions, the identically placed petitioners are aggrieved by the common order dated 8.8.2019, passed by the Sub Divisional Officer, condoning the delay of 40 days and the common order dated 9.9.2019, passed by the learned President, Maharashtra Revenue Tribunal, confirming the same order.

2. The learned Advocate for the petitioners strenuously criticized both the impugned orders. Contention is that, though the delay of 40 days appears to be minor, the grounds raised by

the petitioner would indicate that the proceedings filed before the Sub Divisional Officer by the General Power of Attorney were not maintainable under Order III Rule 6(3) of the Code of Civil Procedure. It is further canvassed that some of the parties had died during the pendency of the proceedings and the L.Rs. were not brought on record. It is then canvassed that the delay caused in challenging the order delivered by the Tahsildar, was not properly explained. The said order was available on the official website and the respondent cannot claim that they were not aware about the said judgment and therefore, the delay of 40 days was caused.

3. The learned Advocate relies upon the five grounds formulated in the memo of the petition and submits that the impugned order deserves to be quashed and set aside.

4. The learned Advocate for the respondents submits that Order III Rule 6 of the CPC does not render a proceeding untenable only on the ground that the party to the suit / recognized agent was not residing within the jurisdiction of the Court. Clause (3) below Rule 6 indicates that a Court may order a party to the suit not having a recognized agent residing within

the jurisdiction of the Court or a Pleader, to appoint within a specified time, an agent residing within the jurisdiction of the Court.

5. He further submits that there was no impediment caused in the proceedings, to any party, merely because the GPA holder for the respondents hailed from Indore. So also, the proceedings were before the Sub Divisional Officer, which cannot be called as a 'Court'.

6. He submits that the delay is minor. If some parties have died and this was not within the knowledge of the litigating sides, the said defect can be cured by taking appropriate steps.

7. I find that delay of 40 days cannot be termed as being inordinate or deliberate. The law laid down by the Honourable Apex Court in the Collector, Land Acquisition Anantnag and another Vs. Mst. Katiji and others [(1987) 2 SCC 107], and Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy and others [(2013) 12 SCC 649], would indicate that a Court has to take a pragmatic view in such matters, rather than following a pedantic approach.

8. In view of the above, these petitions, being devoid of merits are, therefore, dismissed.

9. The parties are at liberty to canvass their contentions in the main proceedings as well as adopt remedial measure for correcting defects, if any.

(RAVINDRA V. GHUGE, J.)

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akl/d