

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 7550 OF 2005

Madhavrao s/o. Bhanudas Kulkarni .. Petitioner
Age. 67 years, Occ. Retired from service,
President Nagri Samanvay Samiti,
Tilaknagar Area, Ravindranagar,
New Osmanpura, Dist. Aurangabad.

Versus

1. The State of Maharashtra .. Respondents
Through the Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai - 32.
2. The Dy. Director,
Land Records, Aurangabad.
3. The Superintendent,
Land Records, Aurangabad.
4. Mir Yawar Ali Khan s/o. Haidar
Yawar Jang, Age. 50 years,
Occ. Business.
1)R/o.Bagsherjang, Daudpura,
Aurangabad.
2)R/o.Rachain, Rompalli,
Hyderabad, Andhra Pradesh.
5. Mahendrakumar s/o. Madanlal Kala,
Age.45 years, Occ. Business,
6. Narendrakumar s/o. Madanlal Kala,
Age. 40 years, Occ. Business

(Both Respondent Nos.5 & 6
R/o. "Kasturi Bungalow"
H.No.167, Vikas Nagar Hsg. Society,
New Osmanpura, Dist. Aurangabad.

7. Pratapsing s/o. Lalsing Rathod,
Age. 40 years, Occ. Business,
R/o. New Shantiniketan Colony,
Near Trimurti Chowk, Aurangabad,
District: Aurangabad.
8. Municipal Corporation of Aurangabad
Through the Municipal Commissioner,
Aurangabad.

Mr.C.T. Jadhav, Advocate for the petitioner.
Mr.S.B. Yawalkar, AGP for the respondent/State.

**CORAM : Z.A.HAQ &
S.M.GAVHANE,JJ.
DATED : 13.03.2020**

ORAL JUDGMENT [PER: Z.A. HAQ, J.] :-

01. By this petition, the order passed by the Deputy Director of Land Records, refusing to condone delay and rejecting the appeal, is challenged. In the appeal, which was filed before the Deputy Director of Land Records, order passed by the Superintendent of Land Records directing bifurcation of P.R. Card in respect of the property in question and directing the mutation in revenue records, was challenged.

02. Learned Advocate for the respondent No.7 submitted that the impugned order passed by the Deputy Director of Land Records, refusing to condone the delay in filing appeal is passed on proper appreciation of facts and material on record and it need not be interfered with, in exercise of extraordinary jurisdiction. One more issue arose at the time of hearing- whether the petition should be heard by us [Division Bench] or it should be placed before the learned Single Judge as per Chapter XVII Rule 18 (3) of the Bombay High Court Appellate Side Rules, 1960.

03. While issuing "Rule" by order dated 28th June 2007, this Court directed that the petition should be heard with Writ Petition No.1693 of 2005. Today, we have decided Writ Petition No.1693 of 2005 recording that looking to the chequered history of the litigation and the counter claim made by the various parties, the issue will have to be adjudicated by the competent Civil Court. As we have decided Writ Petition No.1693 of 2005 and the learned Advocates for the respective parties have not opposed hearing of

this Writ Petition also by us [Division Bench], we have taken up this petition for hearing.

04. For the reasons recorded in the judgment delivered in Writ Petition No.1693 of 2005, we pass the following order to subserve the ends of justice:-

(i) The order passed by the Deputy Director of Land Records on 27th January 2005 is set aside.

(ii) The order passed by the Superintendent of Land Records, Aurangabad on 25th February 1999 is also set aside.

(iii) The matter is remitted to the Superintendent of Land Records, Aurangabad for fresh decision.

(iv) The Superintendent of Land Records, Aurangabad shall hear all the concerned parties and consider the documents that would be produced before him by the parties. The parties shall appear before the Superintendent of Land Records, Aurangabad on 15th May, 2020 at 11.00 a.m.

Rule made absolute in the above terms. In the circumstances, the parties to bear their own costs.

At this stage, learned Advocate for the respondent No.7 requested that the effect and operation of this judgment be kept in abeyance for a period of six weeks to enable the respondent No.7 to take appropriate steps in the matter.

It is directed that none of the parties shall take advantage of this judgment for a period of six weeks from today.

[S.M.GAVHANE,J.]

[Z.A.HAQ,J.]

snk/2020/MAR20/wp7550.05