

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

**WRIT PETITION NO. 8616 OF 2019**

Atmaram Laxman Patil  
Deceased through Legal  
heirs Naresh Atmaram Patil  
& ors.

.. Petitioners

Vs.

The State of Maharashtra  
& Ors.

.. Respondents

Mr.Yogesh D. Keny for petitioners.

Mr.N.C. Walimbe, AGP for respondent Nos. 1 and 2.

Mr.A. Almeida a/w. Ms. Sayli Sawant i/b A.G. Kundekar for  
respondent Nos. 3 to 19.

**CORAM : N.J. JAMADAR, J.**

**DATE : 12<sup>TH</sup> MARCH 2020**

**P.C.**

1. Heard the learned counsels for the parties.
2. The challenge in this petition is to an order passed by the Additional Commissioner, on 22<sup>nd</sup> July 2019, whereby the stay application preferred by the petitioner herein seeking stay to the proceedings of RTS Appeal No.00072 of 2017 before the Sub-Divisional Officer, Thane came to be rejected.

**3.** The respondents herein had filed the said appeal with an application for condonation of delay of about 57 years. The Sub-Divisional Officer was persuaded to condone the delay and direct that RTS Appeal No. 00072 of 2017 be registered and heard on merits, by judgment and order dated 5<sup>th</sup> March 2018. The petitioner herein carried the matter in appeal before the Additional Collector, Thane being Appeal No. 43 of 2018. By order dated 5<sup>th</sup> March 2019, the Additional Commissioner was persuaded to dismiss the appeal.

**4.** Being aggrieved, the petitioners have filed revision under section 257 of the Maharashtra Land Revenue Code, 1966 being RTS/REVI/349/2016. In the said revision, the petitioner filed an application to stay the proceedings of RTS Appeal No. 43 of 2018 pending on the file of the Sub-Divisional Officer, Thane.

**5.** By the impugned order, the Additional Commissioner rejected the said application opining that the petitioners have failed to demonstrate that they would suffer any prejudice if the RTS Appeal No. 43 of 2018 is heard on merits. The petitioners have now invoked the writ jurisdiction of this Court.

6. By an order dated 13<sup>th</sup> September 2019, this Court directed the Sub-Divisional Officer, Thane not to pass final order. It implies that there no restraint on the proceedings of the hearing of RTS Appeal No. 43 of 2018. Since, the challenge in the revision before the Sub-Divisional Commissioner, Thane in RTS Appeal No. 00072 of 2017 is restricted to the order of condonation of delay, it would be in the fitness of things to direct the Divisional Commissioner to decide the revision No.349 of 2019 within a period of three months from 23<sup>rd</sup> March 2020, on which date, the parties shall appear before the Divisional Commissioner, Konkan Division.

7. In the meanwhile, the Sub-Divisional Officer, Thane, may proceed with RTS Appeal No.43 of 2018. However, final order shall not be passed till three months elapse from 23<sup>rd</sup> March 2020.

8. The writ petition stands disposed of.

[ N.J. JAMADAR, J. ]