

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

Writ Petition No. 2353 of 2020

Rambhau s/o Sampat Choudhari and Others Vs. Deputy Inspector General and
Controller of Stamp, Amravati and others

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

Court's or Judge's orders

Mr. A.A. Naik, Advocate for the petitioners
Ms. T.H. Khan, AGP for the respondents

CORAM : MANISH PITALE, J.

DATED : OCTOBER 22, 2020

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. Heard learned counsel for the rival parties.

3. The petitioners are aggrieved by order dated 14th July, 2020, passed by the respondent No.1, whereby an appeal filed by the petitioners has been rejected, on the short ground that the appeal is not accompanied by an application for condonation of delay, although there was delay of 126 days in filing the appeal.

4. By the said appeal, the petitioners had challenged an order dated 25/02/2020, passed by the respondent No.2. The period of limitation prescribed for filing the appeal was admittedly 60 days, which would have expired in April, 2020.

5. The learned counsel for the petitioners has invited attention of this Court to order dated 23/03/2020, passed by the Hon'ble Supreme Court in *Suo motu Writ Petition (Civil) No. 3/2020*, in respect of cognizance of extension of limitation. After taking into consideration the circumstances created by the Covid-19 crisis, the Hon'ble Supreme Court in the aforesaid order stated as follows :

“This Court has taken *Suo Motu* cognizance of the situation arising out of the challenge faced by the country on account of Covid-19 Virus and resultant difficulties that may be faced by litigants across the country in filing their petitions / applications / suits / appeals / all other proceedings within the period of limitation prescribed under the general law of limitation or under Special Laws (both Central and / or State).

To obviate such difficulties and to ensure that lawyers / litigants do not have to come physically to file such proceedings in respective Courts / Tribunals across the country including this Court, it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15th March 2020 till further order / s to be passed by this Court in present proceedings.”

6. On the basis of the aforesaid order, it is submitted on behalf of the petitioners that, in fact, it could not be said that the appeal filed by the petitioners before the respondent No.1 suffered from delay. On this basis, it was submitted that the impugned order deserved to be set aside and that the respondent No.1 ought to consider the appeal on merits.

7. Upon issuance of notice, respondent No.1 has filed a reply-affidavit opposing prayers made in the writ petition, stating that the employees of the office of the Registration Department in

the entire State of Maharashtra were working at full strength from 20th April, 2020. It was submitted that the appeal was filed by the petitioners admittedly on 02/07/2020 and that, therefore, it suffered from delay.

8. A perusal of order dated 23/03/2020, passed by the Hon'ble Supreme Court shows the extra-ordinary circumstances in which the order has been passed and that the Hon'ble Supreme Court has shown concern for the difficulties faced by Lawyers and litigants in taking up proceedings within the period of limitation as prescribed by general law and special laws. It has been specifically ordered that period of limitation in all such proceedings shall stand extended w.e.f. 15/03/2020, till further orders passed by the Hon'ble Supreme Court. There is nothing on record to show that any order subsequent thereto was passed by the Hon'ble Supreme Court and that the petitioners were not entitled for benefit of the said order.

9. The approach adopted by the respondent No.1 is, therefore, erroneous. The reasons sought to be stated in the reply-affidavit are not mentioned in the impugned order and it is settled law that the correctness or otherwise of the order is to be justified on the basis of the contents of the order and not on the basis of affidavits that may be subsequently filed on behalf of the authorities to give reasons not mentioned in the order itself.

10. In view of above, this Court finds that, in the facts and circumstances of the present case and in view of order dated 23/03/2020, passed by the Hon'ble Supreme Court, the petitioners were not required to file any application for condonation of delay, while approaching respondent No.1 in

appeal.

11. Accordingly, the writ petition is allowed. The impugned order is set aside and the respondent No.1 is directed to consider the appeal filed by the petitioners under the provisions of of the Maharashtra Stamp Act, 1958, on merits, as expeditiously as possible.

12. No order as to costs.

JUDGE

MP Deshpande