

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

936 WRIT PETITION NO.13432 OF 2017

GULAB YADAV ANGRE
VERSUS
SANTOSH RAMESH ANGRE AND OTHERS

.....
Advocate for Petitioner : Mr. S. D. Kotkar
Advocate for Respondents 1 and 2: Mr. V.C. Patil h/f Mr. P.B. Vikhe Patil
AGP for Respondents 7 and 8: Mr. K.B. Jadhavar
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CORAM : V. K. JADHAV, J.
DATED : 16th MARCH, 2021

PER COURT:-

1. By consent, heard finally at admission stage.
2. Learned counsel for the petitioner submits that the District Superintendent of Land Records, Ahmednagar has condoned the delay of 54 years for entertaining the appeal without giving any reason. There is no whisper in the order about the reasons considered by the District Superintendent of Land Records for condonation of delay of 54 years. Learned counsel submits that the District Superintendent of Land Records, Ahmednagar has considered the case on merits without deciding the issue about the condonation of delay. Learned District Superintendent of Land Records, Ahmednagar has not considered as to whether the case is made out for condonation of delay of 54 years.
3. Learned A.G.P. for respondent Nos. 7 and 8 submits that in

terms of Schedule E of the Maharashtra Land Revenue Code, 1966, alternate efficacious remedy is available to the petitioner by way of filing appeal before the Deputy Director of Land Records.

4. Mr. Patil h/f Mr. P.B. Vikhe Patil, learned counsel for respondent Nos. 1 and 2 also submits that alternate efficacious remedy is available to the petitioner by filing appeal before the Deputy Director of Land Records. Learned counsel for the respondents submits that otherwise also in view of the record available before the District Superintendent of Land Records, it is clear that after consolidation, the land admeasuring 2 acres 37 gunthas is reduced from the holding of land of respondent Nos. 1 and 2. The District Superintendent of Land Records, has rightly considered the same and thus, condoned the delay caused in filing appeal.

5. Learned counsel for the petitioner has placed reliance on the order dated 27.2.2017 passed by this Court (Coram: S.B. Shukre, J.) in writ petition No. 10628 of 2016 and submits that in the identical situation the matter was remanded to the District Superintendent of Land Records, for considering the delay condonation application afresh in accordance with law, keeping in view the applicable judgments.

6. It appears that the District Superintendent of Land Records,

has condoned the inordinate delay of 54 years. There is no whisper in the order as to why the delay deserves to be condoned and as to whether the case is made out for condonation of such inordinate delay caused in filing the appeal. Though learned A.G.P. and the counsel appearing for respondent Nos. 1 and 2 have vehemently submitted about availability of alternate efficacious remedy, however, in the peculiar facts of the present case, this court is left with no other way but to remand the matter to the District Superintendent of Land Records, Ahmednagar for considering the delay condonation application afresh. It would be a futile exercise to direct the petitioners to avail the alternate efficacious remedy. Hence, the following order:-

O R D E R

- I. The writ petition is hereby partly allowed.
- II. The impugned order dated 16.6.2017 is hereby quashed and set aside.
- III. The matter is remanded to the learned District Superintendent of Land Records, Ahmednagar with following directions:-
 - a) Restore the application seeking condonation of delay bearing No. 839 of 2016 to its original number.

- b) The District Superintendent of Land Records, Ahmednagar to decide the said application afresh in accordance with law by giving opportunity of being heard to both sides.
- c) The parties shall appear before the District Superintendent of Land Records, Ahmednagar on 31.03.2021.
- d) The District Superintendent of Land Records, Ahmednagar shall decide the application seeking condonation of delay afresh within 03 (three) months from the date of appearance of the parties.

IV. Writ petition is accordingly disposed of.

(V. K. JADHAV, J.)

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