

Urmila Ingale

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

WRIT PETITION NO. 848 OF 2019

Bhimsha Chandram Kambale and ors.Petitioners
Vs.
Prakash Nilappa Chabukswar and ors. Respondents

Mr.Ajit V.Alange, for the Petitioners.
Mr.Vivek V.Salunkhe, for Respondents No. 1 to 10.
Mrs.V.S.Nimbalkar, AGP for the Respondent – State.

CORAM : M. S. KARNIK, J.

DATE : 18th MARCH, 2021

P.C. :

. Heard learned Counsel for the Petitioners. Learned Counsel for the Petitioners has challenged the order passed by Sub-Divisional Officer (for short 'SDO') under Section 23(2) of the Mamlatdar's Courts Act (for short the said Act') refusing to entertain the Revision on the ground that there is delay in filing the revision. The SDO observed that as there is no provision for condonation of delay, the application for condonation of delay cannot be entertained.

2. Learned Counsel for the Respondents No. 1 to 10 supported the impugned order. He submitted that there is no provision for condonation of delay in filing the revision under section 23 (2) of the said Act. He invited my attention to paragraph 4 of the order to contend that the SDO has also considered that no sufficient cause has been stated in the application for condoning the delay. He further submitted that on merits too the SDO has found order passed by Tahsildar to be proper.

3. Heard learned Counsel for the parties. There is no period of limitation prescribed under the provisions of the said Act for filing revision under section 23(2) of the Act. The Hon'ble Supreme Court in the case of **Santoshkumar Shivgonda Patil & ors. Vs. Balasaheb Tukaram Shevale and ors. (2009) 9 Supreme Court Cases 352** has held that if no limitation is prescribed, then it is expected that the revision should be filed within a reasonable time. In these circumstances, SDO should not have rejected the revision only on the ground that there is no provision for condoning delay in filing the revision application.

4. Further the explanation offered by the Petitioners that

the applicant namely Apparao Bhimarao Chendake and Nanda Laxman Sitasawad died whereupon it took some time to bring their legal heirs on record which resulted in delay in filing the Revision needs to be accepted subject to payment of cost of Rs.1,000/- to the Respondents.

5. As even SDO had while rejecting the Revision held that 'Tahsildar has after following the proper procedure and holding an enquiry has passed the order therefore there is no substance in the application made by the Revision - Petitioners', has however, not given any reason in support of his conclusions. It is therefore necessary that the SDO decide the Revision on its own merits and in accordance with law.

6. In this view of the matter, the impugned order is set aside.

7. Revision is remitted to SDO for a fresh decision on its own merits and in accordance with law. The SDO is requested to decide the Revision as expeditiously as possibly as preferably within a period of 12 weeks from today.

8. Parties to appear before SDO on 30/03/2021 at 11.00 a.m. and co-operate with the disposal of the Revision by not seeking unnecessary adjournments.

9. Writ Petition is disposed of.

(M.S.KARNIK, J.)

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