

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CONTEMPT PETITION NO.319 OF 2022
IN
WRIT PETITION NO.7958 OF 2019

Fakira Ratan Pathan ..Petitioner

Versus

The State of Maharashtra and Ors. ..Respondents

...
Mr. D. B. Pawar (absent), Advocate for the
Petitioner.

Mr. S. B. Yawalkar, AGP for Respondents-State.

...

CORAM : RAVINDRA V. GHUGE
AND
ANIL L. PANSARE, JJ.

DATED : 21st JULY, 2022.

PER COURT:-

1. On 11.07.2022, the learned Advocate for the petitioner was absent. We posted the matter for dismissal on 14.07.2022.

2. On 14.07.2022, the learned Advocate for the petitioner was absent. After considering the submissions of the learned A.G.P., we passed the following order:-

"1. The learned AGP has made an attempt on the basis of the instructions to indicate that the order dated 01.07.2019 is being

complied with and various steps are required to be taken in the light of the fact that the petitioner has approached the authorities after a delay of 50 years and Rule 12 of the Hyderabad Atiyat Enquiries Rules will be applicable to the case. Hence, this Court had only directed that the application be considered under Rule 12 and with due cooperation of the petitioner, the same be done expeditiously.

2. We find that the learned AGP has made out grounds for justifying the time that has been required and more so, in the light of the fact that several shortcomings/ deficiencies were to be removed by the petitioner. A letter dated 24.03.2022 calling for production of certain documents, is yet to be satisfied by the petitioner. Hence, we are permitting the learned AGP to place on record a short affidavit indicating the sequence of events. Such affidavit may be tendered to the Court across the Bar on the next date.

3. Stand over to 21.07.2022 in the passing orders category."

3. Today, the learned Advocate for the petitioner is again absent.

4. The learned A.G.P. has filed an affidavit-in-reply in view of the leave granted by this Court. An unconditional apology has been tendered. In paragraph nos.3 to 9, the circumstances in which the proceedings could not be completed, are set out. The delay can also be attributed to the conduct of the petitioner. Paragraph Nos.3 to 9 of the affidavit-in-reply dated 20.07.2022 read as under:-

"3. I say and submit that, the petitioner claim and avers to be Virasat (succession) of the Dargah Hazrat Bagsawar situated at Dhorkin Tq. Paithan, Dist. Aurangabad and made the application in the year 2005. As per the application this authority called report. The petitioner claims Virasat (succession) of Inam land of Survey no.103, 170, 15, 16, 32 and 73 of village Dhorkin and Dahegaon Tq. Paithan, Dist. Aurangabad. This application was processed and the deficiencies in the application and documents required were communicated to the petitioner in the year 2007. I say and submit that, certain documents were tendered by the petitioner however, all the documents were never tendered by the

petitioner to the present authority.

4. I say and submit that, the application came to be forwarded to the Ld. Divisional Commissioner, Aurangabad through Ld. District Collector for consideration of condoning the delay as the delay is approximately 50 years.
5. I say and submit that, the hearing was conducted from the year 2016 onwards and on 07.12.2018 the petitioner was informed about the requirement of documents which are necessary for consideration of his application for condonation of delay.
6. I say and submit that, the petitioner did not comply the deficiencies nor produced the documents as called during hearing dated 07.12.2018.
7. I say and submit that, on 13.01.2019 the petitioner gave new application adding new village Katpur Survey No.52 and 73 claiming virasat as (successor) of Chandkha Nazekha Pathan. I say and submit that, previously the petitioner claimed to be successor of Babankhan and Fathekhan. Thereafter, the petitioner filed writ petition no.7958/2019 wherein this Hon'ble High Court directed the Dy. Collector, Aityat to consider the

application of petitioner in tune of Rule 12 of Hyderabad Atiyat Inquires Rule and take the steps in the matter. The present deponent called the detailed report in this case from Tahsildar Paithan vide this office letter dated 02.08.2019.

8. I say and submit that, on 18.01.2021 the petitioner again submitted an amended application claiming Virasat on Survey No.170, 108 of village Dhorkin, Survey No.18 of village Dhangaon and Survey No.73 and 52 of village Katpur. The copy of amended application dated 18.01.2021 submitted by the petitioner is annexed herewith and marked as **Exhibit-R-1**. I say and submit that, again the application was forwarded to the Tahsildar, calling the report. The Tahsildar submitted his report on 16.06.2021. After going through the reports and documents, the petitioner was informed about the deficiencies in the application and has been called various documents vide communication dated 24.03.2022. The copy of communication dated 24.03.2022 is annexed herewith and marked as **Exhibit-R-2**.
9. I say and submit that, after the petitioner complies with the deficiencies as communicated in the communication dated

24.03.2022, the present deponent will be in a position to complete the proposal and forward it to higher authorities for condoning the delay as required under the law. I say and submit that, taking into consideration about the facts the present contempt petition may kindly be purged.

5. In view of the above, we do not find that the respondents can be said to have committed a willful, intentional and deliberate disobedience of the order of this Court dated 01.07.2019. This Court had directed that the Atiyat Inquiries should be completed in view of Rule 12 of the Hyderabad Atiyat Inquiries Rules, expeditiously. No time span was directed.

6. As such, this petition is dismissed.

(ANIL L. PANSARE)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE