

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4459 OF 2022

Vinod Shankar Nawale
Age : 48 years, Occu. Business
R/o. Shivaji Nagar, Jamkhed
Tq. Jamkhed, Dist. Ahmednagar

.. Petitioner

Versus

1. The Sub Divisional Officer
Karjat, Division Karjat
Dist. Ahmednagar
2. The Tahsildar
Jamkhed, Dist. Ahmednagar

.. Respondents

Mr. Abhijit S. More, Advocate for the Petitioner.
Mr. A. S. Shinde, AGP for Respondents-State.

**AND
WRIT PETITION NO. 4590 OF 2022**

Shivaji Trimbak Dongare
Age : 50 years, Occu. Agri.,
R/o. Moha, Tq. Jamkhed,
Dist. Ahmednagar

.. Petitioner

Versus

1. The State of Maharashtra,
Through its Principal Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai – 32.
2. The District Collector,
Ahmednagar, Dist. Ahmednagar.
3. The Sub Divisional Officer,
Karjat, Tq. Karjat,

Dist. Ahmednagar.

4. The Tahsildar, Jamkhed,
Tq. Jamkhed, Dist. Ahmednagar. .. Respondents

Mr. Abhijit S. More, Advocate for the Petitioner.

Mr. S. G. Karlekar, AGP for Respondents-State.

**CORAM : R. D. DHANUKA &
S. G. MEHARE, JJ.**

DATED : 25th APRIL 2022.

ORAL JUDGMENT (PER R. D. DHANUKA, J.) :-

. Rule. The learned A.G.P waives service for the respondents. Rule made returnable forthwith.

2. By these petitions filed under Article 226 of the Constitution of India the petitioners seek writ of mandamus or any other appropriate writ, order or direction, directing the respondent No. 1 to expedite the appeal filed by the petitioners on or before 25.04.2022 and for other reliefs.

3. Against the order of penalty imposed by the respondent No. 2 the petitioners have filed appeal before Sub Divisional Officer alongwith application for condonation of delay. During the pendency of the said appeal, the Tahsildar has put up the property of the petitioners for auction. This proposes to be held on 25.04.2022.

4. The learned A.G.P for the respondents opposes these writ petitions on the ground that the demand was raised by the respondent No. 2 in the year 2017, however, no action was taken by the petitioners impugning the said demand notice for more than four years.

5. The learned A.G.P does not dispute that the appeal is already preferred by the petitioners alongwith application for condonation of delay.

6. In our view, cause of justice would be sub-served if we direct the Sub Divisional Officer to dispose of the appeal alongwith application for condonation of delay filed by the petitioners in both these cases expeditiously and not later on six weeks from the date of communication of this order after conducting hearing of the petitioners or the representatives.

7. The order that would be passed by the Sub Divisional Officer shall be communicated to the petitioners within a period of one week from the date of passing of order. The respondent No. 2 shall not proceed with the notice issued to hold auction in respect of the properties of the petitioners scheduled to be held for a period of six weeks in view of the order directing the Sub Divisional Officer to decide the appeal as well as application for condonation of delay.

8. The learned counsel for the petitioners in both these matters on instructions undertake not to alienate, create any third party rights or create any encumbrance or will not part with possession thereto during the pendency of the appeal before the Sub Divisional Officer alongwith application for condonation of delay and for a period of eight weeks thereafter. Undertaking is accepted.

9. In view of the undertaking rendered by the petitioners and in view of the directions issued to the Sub Divisional Officer to decide the said application for condonation of delay alongwith appeal expeditiously, we do not propose to direct the petitioners to deposit any amount.

10. It is made clear that this Court has not expressed any view on the merits of the matter. All contentions of both the parties are kept open.

11. The petitioners are directed to appear before the Sub Divisional Officer on 05.05.2022 for hearing and shall not seek any unnecessary adjournment.

12. It is made clear that, if the application for condonation of delay filed by the petitioners is rejected for any reasons, the respondents shall not take any coercive steps in respect of the properties of the petitioners or against the petitioners individually for a period of three

weeks from the date of communication of this order. The application for condonation of delay shall be decided first.

13. Writ petitions are disposed of in aforesaid terms.

14. Rule is made absolute accordingly. Parties to act on the authenticated copy of this order. No order as to costs.

(S. G. MEHARE)
JUDGE

(R. D. DHANUKA)
JUDGE

PS.B.