

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

WRIT PETITION NO. 4583 OF 2022

Sanjay s/o Navnath Dongre
Age : 42 years, Occu. Agri.
R/o. Moha, Tq. Jamkhed,
Dist. Ahmednagar

.. Petitioner

Versus

1. The State of Maharashtra
Through the Secretary
Revenue and Forest Department
Mantralaya, Mumbai-32.
2. The District Collector,
Ahmednagar.
3. The Sub Divisional Officer,
Karjat, Tq. Karjat, Dist. Ahmednagar.
4. The Tahsildar,
Jamkhed, Tq. Jamkhed,
Dist. Ahmednagar.

.. Respondents

Mr. R. G. Hange, Advocate for the Petitioner.
Mr. A. S. Shinde, AGP for Respondents-State.

**AND
WRIT PETITION NO. 4582 OF 2022**

Devichand s/o Waman Dongre
Age : 65 years, Occu. Agri.,
R/o. Moha, Tq. Jamkhed,
Dist. Ahmednagar

.. Petitioner

Versus

1. The State of Maharashtra,
Through the 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. R. G. Hange, 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.) :-

. Papers are allowed to be produced in view of the extreme urgency.

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

3. By these petitions filed under Article 226 of the Constitution of India the petitioners have impugned the order passed by the Tahsildar on 31.12.2017 alongwith notice dated 12.12.2019 and notice dated 01.04.2022 issued by the Tahsildar and public notice published in the local news paper on 12.04.2022 thereby putting the land of the petitioners for auction.

4. The learned counsel appearing for the petitioners state that the petitioners in both these petitions have already filed appeal before the Sub Divisional Officer along with application for condonation of delay and the same are pending. In the meanwhile, the respondents are proceeding with the auction proposed to be held.

5. The learned counsel for the petitioners on instructions state that they undertake not to sell the properties in question which are the subject matter of auction or encumber or part with possession or create third party rights during the pendency of the said appeal and for a period of four weeks thereafter. Undertaking is accepted.

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

7. 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 than six weeks from the date of communication of this order after conducting hearing of the petitioners or the authorised representatives.

8. The order that would be passed by the Sub Divisional Officer

shall be communicated to the petitioners within 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.

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 views 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. In so far as Writ Petition No. 4582 of 2022 is concerned, in our view, in view of the undertaking rendered by the learned counsel for the petitioners not to sell or create third party rights,encumber or part with possession in respect of the immovable property, the interest of justice would be sub-served if the stone crusher seized by the Tahsildar, Jamkhed in this case shall be released within 48 hours from the date of communication of this order on the condition that the petitioner does not create any third party rights in respect of the said stone crusher during the pendency of the appeal filed by the petitioner and for a period of four weeks thereafter.

14. Writ petitions are disposed of in aforesaid terms. Rule is made absolute accordingly. No order as to costs.

15. Parties to act upon the authenticate copy of this order.

(S. G. MEHARE)
JUDGE

(R. D. DHANUKA)
JUDGE

P.S.B.