

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

970 WRIT PETITION NO.5436 OF 2015

**ARUN SUKHDEO WAGH AND OTHERS
VERSUS
MANJULABAI UKHA WAGH**

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Mr. Ankush Nagargoje h/f. Mr. P.S. Patil, Advocate for the Petitioners
Mr. Prakash B. Patil, Advocate for the Respondent

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CORAM : SANDEEP V. MARNE, J.

DATE : 11-10-2022

PER COURT :

. By the present petition filed on 11.12.2014, the petitioners have questioned order passed by the Secretary and Officer on Special Duty (Appeals), Revenue and Forests Department on 21.03.2002 holding that the revision before the State Government was not maintainable.

2. Upon being questioned about delay and laches in filing the present petition, learned advocate Mr. Nagargoje relies on the averments made in para - 9 of the petition, which reads thus:

‘9. The petitioners submit that, the petitioners were not aware about the decision of learned Secretary and Officer on Special Duty (Appeals) Revenue and forests Department, till the year 2012. Even respondent was also not aware about the decision taken by the authority and therefore, she has

not made any reference regarding that, when she filed Civil Suit No.145/2012 on 14.02.2012 against the present petitions for possession of half share in Gat No.143 of village Samode. When respondent filed suit for possession on half share in the suit property then only petitioners started to collect the documents and they came to know that, learned Secretary and Officer on Special Duty (Appeals) Revenue and Forests Department, dismissed / rejected Revision filed by deceased Sukhdeo Bhika Wagh on a technical ground that, second revision before the Govt. against the decision of learned Additional Commissioner, is not maintainable.'

3. Thus, delay of more than 12 years is sought to be justified by contending that the petitioners did not have knowledge about the order passed on 21.03.2002. This justification is not acceptable as every litigant is supposed to enquire about the outcome of the proceedings filed by him / her. At least some time after 21.03.2002, the petitioners ought to have made efforts to enquire about outcome of the revision filed by them. It is contended that the petitioners started making enquiry about outcome of revision only after filing of Civil Suit No.145 of 2012 by the respondent. As contended by the petitioners themselves that the suit is for possession of half share in the suit property. Therefore, merely on account of filing of that suit, there was no occasion for the petitioners to wake out of their deep slumber and make enquiry about the result of the revision that was instituted by them.

4. Even otherwise, para - 2 of the order dated 21.03.2002 records that a hearing was conducted on 21.03.2002 which was attended by the advocate for the petitioners. That advocate had also submitted written arguments. Therefore, the theory put forth in the present petition about the petitioners being oblivious upon the outcome of the revision is unbelievable. I find that the petition is barred by delay and more importantly by laches, the same deserves to be dismissed and is dismissed without any orders as to costs.

5. Needless to observe that both the sides have instituted civil suits to establish their rights. The validity of mutation entries would ultimately depend upon the outcome of the civil suits instituted by both the parties.

(SANDEEP V. MARNE, J.)

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