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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1580 OF 2022**

Arun Sampatrao Patil

..... Petitioner.

V/s

Smt. Parvati Mahadeo Bamugade

since deceased through legal heirs

1a. Smt. Sarita Tanaji Sane and Ors. Respondents.

Mr. Vishal Kanade a/w Janhavee Joshi i/b Mohan B. Jadhav for the
Petitioner.

Mr. Satyajeet P. Dighe for Respondent Nos.1(d) and 2.

CORAM: NITIN W. SAMBRE, J.

DATE: JUNE 30, 2022

P.C.:-

1] The order impugned is dated 17/11/2021 passed by the State Government whereby order dated 6/7/2020 passed by Additional Commissioner, Konkan Division came to be set aside and the order dated 30/11/2017 passed by the Sub-Divisional Officer (SDO) came to be restored whereby mutation entry in the name of Respondents being Mutation Entry No.ME 1277 came to be restored.

2] Contentions of Mr. Kanade, learned Counsel for the Petitioner are, Petitioner is a party to the partition suit at the behest of

Respondents, which is already pending in which Respondents have filed an application for grant of temporary injunction. He would urge that Mutation Entry of 2007 is upset in 2015 by SDO without there being any plea for condonation of delay. He would urge that the issue is squarely covered by the judgment of this Court in the case of *Balkrishna Sadashiv Thakur and Ors vs. Prabhakar Sadashiv Thakur and Ors.* delivered in Writ Petition No. 2658/2018 on 10/2/2021. He has specifically relied on the findings recorded in paras 14 and 15 of the aforesaid judgment.

3] Counsel for the Respondents, while resisting aforesaid claim would urge that proceedings before revenue authority are always subject to outcome of the civil proceedings. According to him, till injunction application of the Respondent is decided, existing position can be maintained and parties can be relegated to the outcome of the aforesaid civil suit. In the alternative, his submissions are, matter can be remanded for giving opportunity to the Respondents to take out proceedings for condonation of delay.

4] I have appreciated the said submissions.

5] Fact remains that unless application for condonation of delay is accompanied with main proceedings, revenue authorities particularly SDO will not get jurisdiction to entertain and decide the said proceedings which is in relation to upsetting Mutation Entry which was in favour of the Petitioner herein. As a sequel of above and rightly so, Additional Commissioner followed law from the judgment of this Court in the matter of *Balkrishna Sadashiv Thakur* cited supra. Fact remains that the State Government while passing the order impugned has failed to consider aforesaid issue and has proceeded to set aside the order of Additional Commissioner without considering the issue as regards jurisdiction of SDO to entertain the proceedings, as it is already observed that in absence of order condoning the delay the authority won't get jurisdiction to entertain the proceedings.

6] In that view of the matter, order impugned dated 17/11/2021 is hereby quashed and set aside. RTS Appeal No.2821/PK/05/J-4A/2020 stands rejected for the reasons recorded hereinabove.

7] In view of submissions made by the Counsel for the Respondents, needless to clarify that application of the Respondents for grant of temporary injunction-Exhibit-5 in the pending suit for partition and separate possession be decided on its own merit without being influenced by the orders passed by this Court in the present Petition.

(NITIN W. SAMBRE, J.)