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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7680 OF 2022**

Sanjay M. Dube ... Petitioner
Vs.
The District Superintendent of
Land Records and Ors. ... Respondents

Mr. P. M. Arjunwadkar for the Petitioner.
Mr. C. D. Mali AGP for Respondent Nos.1 and 2-State.
Mr. S. G. Karandikar for Respondent Nos.3

CORAM : S. M. MODAK, J.

DATED : 23RD NOVEMBER 2022.

P.C:-

1. Heard learned Advocate for the Petitioner, learned AGP for the Respondent-State and learned Advocate for contesting Respondent No.3.
2. Rule. Rule made returnable forthwith. Learned AGP waives service on behalf of Respondent Nos.1 and 2 and learned Advocate waives service on behalf of Respondent No.3. By consent of the parties the matter is taken up for final hearing.
3. Respondent No.3 has moved an application before the Deputy Superintendent of Land Records, Palghar on 8th October 2020. He has requested for adding his name and by deleting the name of Mohan Bacchu Dube. The Deputy Superintendent of Land Records, Palghar has not gone into merits of that application but he informed

Respondent No.3 that the application does not disclose in what capacity he has acquired land in question bearing CTS No.39. Respondent No.3 had chosen to prefer an Appeal before the District Superintendent of Land Records. There was delay in filing an Appeal. The present Petitioner and Respondent No.4 were opponents therein. The learned District Superintendent of Land Records as per the impugned order dated 20th January 2022, was pleased to condone the delay and Appeal was admitted and it is pending.

4. The only contention is that the delay is not for one month but it is for almost 60 to 70 years. A copy of the reply filed therein is filed at page 36. The contention is that the name of one Mohan Bacchu Dube was entered on city survey extract in the year 1970. A copy is at page 20. Further contention is that mode adopted by Respondent No.3 about approaching Deputy Superintendent of Land Records thereby making two prayers, (one, for adding his name and second, for deleting the name of Mohan Bacchu Dube) was not correct. According to learned Advocate in fact at that time only Respondent No.3 ought to have preferred an Appeal before the Superintendent of Land Records. His grievance is that even though these contentions were taken before the District Superintendent of Land Records, they were not considered. That's why present Writ Petition is filed.

5. Learned AGP is supporting the impugned order. Learned Advocate for Respondent No.3 has taken preliminary objection. According to him, the order condoning the delay is open for challenge by way of Revision Petition as contemplated under the provisions of section 257 of the Maharashtra Land Revenue Code, 1966. In support

of that he relied upon the judgment delivered in **Writ Petition No.8673 of 2016**. There was an issue whether Appeal/Revision is maintainable against the order of condoning delay passed by the Revenue Authorities. It was held that certainly it is maintainable. I agree to his submission. In view of that this Writ Petition will certainly not be maintainable. The Petitioner is at liberty to take appropriate steps.

6. When this Court is relegating the Petitioner to take appropriate steps, he also needs to be granted liberty to take objection that the delay is not for one month but for 60 to 70 years. The concerned authorities to hear the parties on that issue and also to give finding.

7. The Petitioner is also at liberty to take objection before the concerned authorities that in fact the Appeal filed by Respondent No.3 before the District Superintendent of Land Records is not maintainable.

8. The Petitioner to take necessary steps within a period of one month from today. For three months from today, hearing of the Appeal pending before the District Superintendent of Land Records is stayed.

9. Rule is made absolute in the aforesaid terms. No costs.

(S. M. MODAK, J.)