

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 9918 OF 2022

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Pramod Ramchandra Sheth & Anr.

...Petitioners

Versus

The State of Maharashtra & Ors.

...Respondents

- Mr. Drupad S. Patil, Advocate for the Petitioners.
- Mr. V. S. Gokhale, B Panel Counsel (AGP), for the Respondent – State.

**CORAM : PRASANNA B. VARALE &
KISHORE C. SANT, JJ.**

DATE : AUGUST 18, 2022.

P. C. :

1. Matter is moved before this Court by way of a praceipe. In view of urgency, order is passed on praceipe itself.

2. The petitioners are before this Court with following prayers clause a and b which reads thus :

“a. That this Hon’ble Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order and/or Direction in the nature of Mandamus, thereby directing the Respondent No. 1 to take initiative steps for taking hearing and deciding the Revision Application dated 04.08.2022 filed by the petitioners herein, being Exhibit ‘K’ to this Writ Petition;

b. Pending hearing and final disposal of the said RTS Revision dated 04.08.2022, pending before the Hon’ble Revenue Minister i.e. Respondent No. 1 herein, this Hon’ble

Court may be pleased to stay the further proceedings of RTS Appeal No. 747 of 2022 pending before Ld. District Superintendent of Land Records, Raigad, being Exhibit 'H' to this petition."

3. Learned Counsel for the petitioners invited our attention to the order passed by the District Superintendent of Land Record dated 26th July, 2022, copy of the same is placed on record at Exhibit 'J' page no. 85. The Petitioner No. 1 and Petitioner No. 2 were the Respondent Nos. 1/1 and 2/1 respectively before the District Superintendent of Land Records in the said proceedings whereas the Respondent No. 2 herein was the appellant. An entry in revenue records was subject matter in the appeal. Admittedly there was an delay in the appeal and an application for condonation of delay was filed. The delay of was 29 years. Learned Counsel for the petitioners submitted that the District Superintendent of Land Records only made reference to the contentions raised in support of the application, and opposing the application, the authority though specifically observed that there are no justifiable reasons shown by the appellant for the delay caused, but, then only on a observation that there is some merit in the appeal, delay is condoned and the appeal is directed to be placed for regular hearing. It is further submitted by learned Counsel for the petitioners that the order passed by the District Superintendent of Land Records even *prima facie* suffers from non-application of mind and the authority ought to have assigned reasons for condonation of a long unexplained delay of 29 years.

4. Learned Counsel for the petitioners submitted that being aggrieved by the said order, the petitioners immediately filed Revision Application before the Competent Authority on 04th August, 2022, copy of the revision memo is placed on record at Exhibit 'K' page 88. Learned Counsel for the petitioners then submitted that by way of an interim prayer clause 'c' in the appeal, the petitioners herein and the revision applicant prayed for grant of stay. Learned Counsel for the petitioners then submitted that due to peculiar circumstances there are less possibilities of the revision and the application being heard in near future and on the other hand the authority i.e. District Superintendent of Land Records is bent upon to hear the appeal and the appeal is fixed for hearing on 22nd August, 2022. On these submissions, learned Counsel for the petitioners press prayer clause 'b' of the petition.

5. We find considerable merit in the petition. Learned Counsel for the petitioners was justifiable in submitting before this Court that due to peculiar circumstances it is possible that the revision filed by the petitioners may not be heard in near future. Accordingly, we direct the Competent Authority i.e. Respondent No. 1 to hear the revision filed on behalf of the petitioners as early as possible and may pass appropriate orders on the prayer clause 'c' of the revision expeditiously and not later than four (04) weeks from the date of receipt of the order of this Court.

6. We further direct that till the order is passed by the Revisional Authority on prayer clause 'c' of the revision, there shall be a stay to the order passed by the District Superintendent of Land Records dated 26th July, 2022.

7. We further make it clear that as soon the order is passed by the Respondent No. 1 on prayer clause 'c' of the Revision Application, order passed by this Court shall stand vacated. With these observations / directions, petition is disposed of.

8. All concerned shall act upon a copy of this order which is duly authenticated by the Registry of this Court.

(KISHORE C. SANT, J.)

(PRASANNA B. VARALE, J.)