

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CIVIL WRIT PETITION NO. 12673 OF 2019**

Laxman Shivaji Jagtap

... Petitioner

V/s.

Ld. Joint Charity Commissioner & Ors.

... Respondents

Mr. Ojas Deolankar for Petitioner.

Mr. A.B. Kadam, A.G.P for Respondent Nos.1 & 3 (State).

Mr. G.N. Salunke i/b. Mr.Umesh Kurund for Respondent No.2.

CORAM : A.S. GADKARI, J.**DATE : 20th April 2022.****PC. :**

1. Petitioner has impugned Order dated 2nd November 2019 passed below Exh.10 in Misc. Application No. 57 of 2019 by the Respondent No.1, rejecting the said application for condonation of delay of 30 years 5 months and 13 days in preferring the said appeal.

2. Heard Mr.Deolankar, learned Advocate for the Petitioner, Mr.Salunke, learned counsel for Respondent No.2 and Mr.Kadam, learned A.G.P for Respondent Nos.1 & 3. Perused record.

3. It is an admitted fact on record that, Respondent No.2-Trust came into existence after the Deputy Charity Commissioner, Pune Region, Pune passed Order in Application No. 75 of 1972 dated 25th May 1987. The Suit

property became part of the said Trust as per Certificate 'A', which was issued in favour of the Applicant therein, namely, Raghunath Ramchandra Gavali. It is the case of the Petitioner that, the Certificate under Section 32 M of The Bombay Tenancy & Agricultural Lands Act, 1948 (for short, "the BTAL Act") was issued in favour of his father by the Agricultural Land Tribunal and Tahsildar, Barshi, District Solapur and therefore the Suit property ought not to have been given even by way of Will in favour of the said Trust. It is the further case of the Petitioner that in the year 2019, he came to know about the fact that the Suit property is owned by the said Respondent No.2-Trust and therefore on 13th May 2019 he filed an appeal under Section 70 of The Maharashtra Public Trusts Act, 1950 before the Respondent No.1. As there was delay of 30 years 5 months and 13 days in preferring the said appeal, he also filed an application for condonation of delay. It is to be noted here that, in the said appeal, the substantive prayer made by the Petitioner is for quashing and setting aside the Order dated 25th May 1987 passed in Application No. 75 of 1972.

4. As far as the said registration of Trust is concerned, record clearly reveals that, a notice as contemplated under Section 7A of the Maharashtra Public Trusts Rules, 1951 was published on 21st March 1972. It was a 'public notice' published in local newspaper and was also affixed at conspicuous part of trust property, on the notice board of Gram Panchayat Office of village

Vairag and notice board of Public Trusts Registration Office at Solapur. It is after publication of said notice and inviting objections, the said Trust came into existence. Record indicates that, the Petitioner so also his father Mr. Shivaji Jagtap were and are residents of village Vairag, Taluka Barshi, District Solapur. It is the presumption under the law that, father of the Petitioner was aware of the said notice published by the Office of the Charity Commissioner. In this background, it is the case of the Petitioner that, he came to know about incorporation of Suit property as the property of the Trust in the year 2019 when the Office of the Charity Commissioner passed an Order of prohibition.

5. Perusal of application for condonation of delay would clearly indicate that, no cause least to say sufficient cause to condone the said colossal and inordinate delay of 30 years 5 months and 13 days is made out. The fact of knowledge of the father of the Petitioner regarding publication of notice before registration of Trust has not been rebutted or denied in the entire application. It appears that, the Petitioner was enjoying the possession of the Suit property for last about 30 years without obstruction and it might be the reason he did not ever challenge the Order dated 25th May 1987 passed by the Deputy Charity Commissioner, Pune. As noted earlier, the Petitioner has not offered sufficient, least to say any plausible explanation for condonation of such a colossal and inordinate delay in preferring present appeal.

6. In view thereof, this Court finds that, the Respondent No.1 has not committed any error while rejecting the application of Petitioner. There are no merits in the Petition and is accordingly dismissed in *limine*.

[A.S. GADKARI, J.]

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