

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

WRIT PETITION NO. 615 OF 2018

Nagesh Shamrao Wagh

Vs.

Bajirao Narayanrao Wagh and Ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. S.D. Chande, Advocate for petitioner.
Mr. S.D. Borkute, Advocate for respondent No.1.
Mr. K.L. Dharmadhikari, AGP for respondent Nos.2 & 3.

CORAM : MANISH PITALE J.

DATE : 14.06.2022.

By this writ petition, the petitioner has challenged order dated 26.12.2016, whereby an application for condonation of delay in filing revision application under Section 23 of Mamlatdar Courts Act, 1906, has been dismissed.

2. According to the petitioner, the impugned order does not deal with the specific grounds raised on behalf of the petitioner to demonstrate sufficient cause for condonation of delay. It is submitted that the respondent No.3 - Deputy Collector, Washim, in the impugned order has misdirected themselves to reach the finding that

the petitioner had sought to mislead the said authority while seeking condonation of delay.

3. This Court considered the documents on record in order to appreciate the contentions raised on behalf of the petitioner.

4. A perusal of the order passed by the original authority i.e. Mamlatdar/Tahsildar dated 19.08.2015, would show that in real terms the grievance of the petitioner appears to be that the said order is not being executed in the manner directed by Tahsildar in the said order.

5. A perusal of the said order would show that on an application moved by the respondent No.1 under Section 5 of the aforesaid Act, against the petitioner and others, it was specifically directed that the applicant and non-applicant therein would immediately get their lands measured for determination of boundaries and thereafter, in terms of the measurement and the determination of the boundaries, consequent action would be taken.

6. The second clause of the order passed by the Mamlatdar/Tahsildar was in fact a direction in favour of the petitioner. Therefore, this Court fails to understand as to what was the grievance of the

petitioner, which propelled him to approach the respondent No.3 – Deputy Collector, Washim, by filing the revision application along with the application for condonation of delay. If the only grievance of the petitioner is that the order dated 19.08.2015 passed by the Mamlatdar/Tahsildar is not being executed in the correct perspective, appropriate directions can be given by this Court.

7. It is an admitted position that respondent No.1 i.e. original applicant before the Mamlatdar never raised any grievance regarding the said order.

8. Therefore, this Court is of the opinion that the petitioner had hardly any grievance to approach the respondent No.3 – Deputy Collector, Washim, by filing the revision petition and that therefore, examining the question as to whether the said respondent was justified in dismissing the application for condonation of delay, would be an exercise in futility.

9. Hence, the writ petition is disposed of by directing the petitioner as well as the respondent No.1 to have their lands measured in terms of the order dated 19.08.2015. For this purpose, they shall apply for such measurement before the respondent No.2 – Tahsildar within a period of two weeks from

today. The respondent No.2 shall take consequential action in the matter, so that the aforesaid order dated 19.08.2015 passed by the Mamlatdar/Tahsildar is implemented in letter and spirit.

10. The writ petition stands disposed of.

JUDGE