

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1597 OF 2023

Bhagitrabai Changdev Nipe
Age 70 years, Occ.Agri.,
R/o Wadji Tq. Vaijanpur
Dist. Aurangabad.

...Petitioner

Versus

1. Kalu Babu Shaikh,
Age 30 years, Occ.Agri.,
2. Ismail Babu Shaikh,
Age 40 years, Occ.Agri.,
3. Javid Dada Shaikh,
Age 30 years, Occ.Agri.,
4. Atik Dada Shaikh,
Age 35 years, Occ.Agri.,
5. Daulat Murlidhar Nipte,
Age 40 years, occ.Agri.,

All R/o Wadji Tq. Vaijapur,
Dist. Aurangabad.
6. The Circle Officer,
Circle Wadji Tq. Vaijapur,
Dist. Aurangabad.
7. The Talathi,
Talathi Sajja, Wadji,
Tq. Vaijapur Dist. Aurangabad.
8. The Tahsildar,
Tahsil Office, Vaijapur,
Tq. Vaijapur Dist. Aurangabad.

9. The Sub Divisional Officer,
Vaijapur Tq. Vaijapur Dist.
Aurangabad.

...Respondents

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Advocate for Petitioner : Mr. N. D. Sonawane
AGP for Respondents-State : Mr. N. T. Bhagat
Advocate for Respondents No.1 to 5 : Mr. V. H. Pathade
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CORAM : ARUN R. PEDNEKER, J.

Date of Reserving The Order : 26/09/2023
Date of Pronouncing The Order : 17/10/2023

ORDER :

By the present writ petition, the petitioner is challenging the order passed by the revisional authority under Section 23 (2) of the Mamlatdars' Courts Act whereby the revisional authority was pleased to reject the revision application on the ground of delay of five months. The order of Mamlatdar which was impugned before the revisional authority is dated 21/01/2022 and the revision application is filed on 06/07/2022.

2. The respondents No.1 to 6 filed Rasta Case under Section 5 of the Mamlatdars' Courts Act against the petitioner for removal of obstruction between Gut No.52 and 53 and also for opening of the road.

3. The Tahsildar by order dated 21/01/2022 allowed the said application. The petitioner, thereafter, filed a revision application on 06/07/2022 before the Sub Divisional officer under Section 23 (2) of the Mamlatdars' Courts Act. On notice, the respondents appeared in the matter and the matter was heard finally. The Revisional Court by order dated 16/09/2022 held that there is a delay in filing revision and the same is not filed within limitation and dismissed the revision petition on the ground of delay.

4. The learned Advocate appearing for the petitioner submits that the petitioner came to know about the order dated 21/01/2022 passed under Section 5 of the Mamlatdars' Courts Act on 26/02/2022, and thereafter, filed the revision application on 06/07/2022. The learned Advocate for the petitioner further submits that there is no limitation prescribed under Section 23 (2) of the Mamlatdars' Courts Act in filing the revision petition, and in any event, the petition is not delayed. The petition is filed within reasonable period.

5. Per contra, the learned Advocate appearing for the respondents submits that the revision is rightly dismissed and that

this Court should not interfere with the order passed by the revisional authority in exercise of its jurisdiction, under Article 227 of the Constitution of India.

6. Having considered the rival submissions and on perusal of the Mamlatdars' Courts Act, it appears that there is no limitation prescribed in filing revision petition under Section 23 (2) of the Act. The petition is filed within five months of the knowledge of the order passed by the Mamlatdar, and within reasonable time.

7. For the reasons stated above, the order passed by the Revisional Authority is set aside. The matter is restored to the file of the Revisional Authority, the Revisional Authority to decide the same in accordance with law.

8. In view of the above, the writ petition is disposed of.

(ARUN R. PEDNEKER, J.)

vj gawade/-.