

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 13196 OF 2017

1. Vinayak Ukharda Jaware

2. Kashinath Nina Patil .. Petitioners

Versus

. Madhukar Tulshiram Patil .. Respondent

Mr. Nitin K. Chaudhari, Advocate for the Petitioners.

Mr. Rohit P. Patwardhan, Advocate h/f Smt. Sunita D. Shelke, Advocate
for sole Respondent.

CORAM : KISHORE C. SANT, J.

DATED : 07th AUGUST, 2023.

P C. :-

. Heard the parties. Taken up for final disposal by consent of the parties.

2. A challenge in this writ petition is to an order passed by the learned Member (Administrative), Maharashtra Revenue Tribunal, Aurangabad thereby condoning the delay of 379 days i.e. caused in filing Revision Application No. 28/B/2012/Jalgaon and admitting the said revision application. The impugned order is dated 11.10.2017. The limited ground in the petition is that, the delay is condoned in absence of sufficient reasons. It is sought to be contended that, the

reason given in paragraph No. 2 of the delay condonation application is also misleading. The respondent had given the reason that the order impugned in the said revision passed by the learned Additional Collector is passed on the ground of lack of jurisdiction when in fact, the appellate Court's order was passed on merits and for that learned advocate read out the order passed by the learned Additional Collector dated 16.03.2012. In the operative part of the said order the learned Additional Collector had stated that, the appeal is dismissed for the reasons stated in the judgment. Learned advocate thus submits that, when operative order is clear that the matter was decided on merits, the ground taken in the delay condonation application is totally false.

3. Learned advocate for respondent points out that, though in the operative part of the order it is stated that the appeal is rejected for the reasons stated in appeal by inviting attention that, in fact, the learned Additional Collector has clearly stated that the dispute falls under the jurisdiction of Civil Court and secondly, in respect of grant of permission under the Maharashtra Tenancy and Agricultural Lands Act would fall within the jurisdiction of the M.R.T.

4. Thus, this Court finds that, the learned Collector had mainly considered that he had no jurisdiction to deal with the appeal though there appears to be some discussion on the facts on record. The fact

remains that he has clearly stated that he had no jurisdiction to decide the said appeal. The next ground of the petitioners is that though delay is considered of 379 days, but in fact, it was 2 years and 11 months. However, this Court finds that, there is technical objection. This Court finds that, certainly condonation of delay is also a matter of consideration and it cannot be condoned as a matter of course specially when it is more than a year and when the litigation deals with the rights of the parties. In this case, certainly it can be said that the petitioners are put to some inconvenience because of delay in approaching the M.R.T. In view of the same, this Court finds that, some cost can be imposed upon the respondent for the said delay.

5. This Court finds that, though the petition is dismissed the respondent shall deposit an amount of Rs. 15,000/- (Rs. Fifteen Thousand only) to be paid to the petitioners for the delay that is caused. The impugned order is thus modified by incorporating the clause of cost. The impugned order shall be substituted by order (i) The delay of 379 days in filing the Revision Petition No. 28/B/2012/ Jalgaon is hereby condoned subject to cost of Rs. 15,000/- (Rs. Fifteen Thousand only) to be deposited on or before 09.10.2023. The amount of cost to be deposited in the office of M.R.T. The M.R.T. shall allow the petitioners to withdraw the said amount without requiring formal

application for withdrawal of the said amount.

6. The M.R.T. is directed to decide the appeal as far as possible and within a period of six (06) months thereafter.

7. The writ petition is disposed off.

(KISHORE C. SANT, J.)

PS.B.