



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11052 OF 2023

Narayan Pandurang Sankpal

.Petitioner

Vs.

Bharat Ramchandra Gele & ors.

.Respondents

Mr. Vikas Kolekar, Advocate, for the Petitioner

Mr. Prasanna Shahane h/f. Mr. Milind Deshmukh, Advocate, for
Respondent No. 1

Mr. P. G. Sawant, AGP, for the Respondent – State

CORAM : MADHAV J. JAMDAR, J.

DATE : 27.09.2023

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1. At the outset, Mr. Kolekar, learned counsel appearing for the Petitioner seeks leave to amend to implead the State of Maharashtra as party Respondent No. 2 as well as deletion of Respondent Nos. 2 to 4. Leave as sought for is granted at the risk of the Petitioner. Amendment be carried out forthwith. Re-verification is dispensed with. He states that Respondent No. 1 is the only contesting Respondent.

2. Mr. Kolekar, learned counsel appearing for the Petitioner states that in the Writ Petition filed under Article 227 of the Constitution of India, challenge is to the legality and

validity of the order dated 22.12.2022 passed by learned Sub Divisional Officer, Miraj Sub Division, Miraj in a delay condonation Application filed in RTS/Appeal/262/2021. By the impugned order, the delay in filing Appeal has been condoned. It is the contention of Mr. Kolekar, learned counsel appearing for the Petitioner that the Petitioner, who is the original Defendant No. 3 has filed a detailed reply opposing delay condonation Application, however, in the impugned order, it is stated that the Respondents have not filed any reply to the said Appeal. He, therefore, submitted that the impugned order is liable to be quashed and set aside.

3. Mr. Shahane, learned counsel appearing for Respondent No. 1 states that by considering the material on record, the impugned order has been passed. Therefore, no interference is warranted.

4. The factual position on record shows that there is a delay of about 29 years. In the impugned order, it is specifically mentioned that the Respondents have not filed any reply to delay condonation Application. The said observations in the impugned order are contrary to the record. Thus, it is clear that the

impugned order is perverse, as the reply filed to the delay condonation Application is not taken into consideration.

5. Accordingly, the impugned order dated 22.12.2022 passed by learned Sub Divisional Officer, Miraj Sub Division, Miraj in delay condonation Application filed in RTS/Appeal/262/2021 is quashed and set aside and the said delay condonation Application is restored to the file of the learned Sub Divisional Officer, Miraj Sub Division, Miraj. Learned Sub Divisional Officer, Miraj Sub Division, Miraj to decide the delay condonation Application afresh.

6. It is clarified that this Court has not considered the merits of the Petition and all the contentions on merits including merits of the delay condonation Application are expressly kept open.

7. The Writ Petition is disposed of in above terms with no order as to costs.

(MADHAV J. JAMDAR, J.)