

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.310 OF 2016

Kaka Sambhaji Patil (Decd) through LRS & ... Petitioners
Anr.

Versus

Shri.Yashwant Bapu Rakshe & Ors. ...Respondents

Mr.Amitkumar D. Sale, for the Petitioners.
None for the Respondents

CORAM: G. S. KULKARNI, J.
DATED: JANUARY 07, 2023

PC.

1. Heard learned Counsel for the petitioners. The order impugned in the present writ petition is an order dated 13 April 2015 passed by the learned Member (Judicial), Maharashtra Revenue Tribunal, Mumbai, whereby an application for condonation of delay in filing the revision application, against the judgment and order dated 21 August 1986 passed by the Sub-Divisional Officer, Miraj, has been rejected.

2. The petitioners are legal heirs of deceased-Kaka Sambhaji Patil who after about a period of three years from Kaka Sambhaji Patil having expired, approached the Maharashtra Revenue Tribunal, purportedly challenging the said order passed by the SDO. The only ground which

was urged before the MRT in supporting the case for condonation of delay was in regard to the medical condition of Kaka Sambhaji Patil. It is stated that Kaka Sambhaji Patil was hospitalised in the year 2005 due to severe diabetes. However, it appears that he was discharged from the hospital in the year 2005 itself, was passed away in the year 2010. However, there was no explanation whatsoever as to why steps were not taken from the year 1986 till the year 2005 to file the proceedings. Even if the case of the petitioners of hospitalisation of Kaka Sambhaji Patil is considered, his discharge from the hospital was in the year 2010, the case of the petitioner in that regard is totally silent.

3. The learned Tribunal considering the well settled principles of law which would guide the Courts to condone delay and considering the fact that in the present proceedings delay in filing the revision application was of 27 years, has rejected the petitioners' application for condonation of delay, by the impugned order.

4. Admittedly, the order which was intended to be assailed in the Revision was an order dated 21 August 1986 passed by the Sub-Divisional Officer, Miraj, (for short "**the SDO**") which allowed the appeal filed by the respondents declaring the respondents as tenants in the

proceedings under Section 32-G of the Bombay Tenancy and Agricultural Lands Act, 1948. On a perusal of the orders passed by the Sub-Divisional Officer, it is quite clear that the said appeal as filed by the respondents was contested by the father of the petitioners. The father Kaka Sambhaji Patil expired in the year 2010, after an illness which commenced in the year 2005. However, between the period from 1986 till 2005 he has never thought it appropriate to assail the orders passed by the SDO.

5. The subject matter of proceedings before the Revenue authorities appears to be a dispute between the petitioner's deceased father and the respondents on a claim of a tenancy in respect of the land in question for which substantive proceedings under Section 32-G of the Bombay Tenancy and Agricultural Lands Act, 1948, were initiated by the respondents and ultimately, by an order dated 21 August 1986 passed by the Sub-Divisional Officer, a declaration was granted in favour of the respondents that the respondents are the tenants in respect of the disputed land in question.

6. Mr.Sale, learned Counsel for the petitioners would submit that a lenient view was required to be taken by the tribunal while passing the

impugned order, and the delay condonation application ought to have been rejected.

7. After having considered the contentions as urged by Mr.Sale, and having perused the impugned order dated 13 April 2015, the delay in the present case was admittedly of 27 years which is a gross and unexplained delay. Certainly there was no justification whatsoever for the revision application not being filed diligently and within the prescribed limitation as the law would mandate. After having perused the impugned order, I do not find any infirmity as also any perversity in passing the impugned order by the tribunal in any manner exercising its jurisdiction. The petition is devoid of any merit. It is accordingly, rejected. No costs.

(G. S. KULKARNI, J)