

Santosh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 7330 OF 2022

SANTOSH
SUBHASH
KULKARNI

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KULKARNI
Date: 2023.03.18
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Dattatray Yamana Disale & ors.

...Petitioners

Versus

Dananjay Shankar Pai & ors.

...Respondents

Mr. Anand Salgaonkar, i/b Kuldip Pawar, for the Petitioners.
Mr. S. D. Rayrikar, AGP for the State/Respondent.

CORAM: N. J. JAMADAR, J.

DATED : 17th MARCH, 2023

PC:-

1. Heard the learned Counsel for the petitioner.

Leave to amend.

Amendment be carried out forthwith.

2. The challenge in this petition is to an order dated 15th April, 2019 passed by the learned Member, Maharashtra Revenue Tribunal, Mumbai ("MRT") in Revision Application bearing REV/TNC/RAG/166/2018, whereby the MRT declined to interfere with the order dated 14th March, 2018 passed by the learned Sub-Divisional Officer, Karjat, in Tenancy Appeal No.7 of 2014 rejecting the application for condonation of delay of

about 39 years in preferring appeal against an order passed in Tenancy Case No.36/460 dated 2nd August, 1975.

3. The petitioners professed to assail the said order dated 2nd August, 1975 in an appeal before the Sub-Divisional Officer. As there was delay in preferring appeal, an application for condonation of delay came to be filed.

4. I have perused the averments in the delay condonation application. The only reason assigned for the condonation of delay appeared to be that the petitioners were unaware of the passing of the said order dated 2nd August, 1975 and learnt about the same when the respondents came to the suit land with intent to show the same to the prospective purchasers. The petitioners claimed that they were still in possession of the suit land in the capacity of the protected tenants. The Sub-Divisional Officer was not persuaded to accept the said reason ascribed for condonation of delay.

5. The MRT found that the discretion exercised by the Sub-Divisional Officer was justifiable. It seems that before the MRT, the petitioner sought to ascribe reasons different from the one pleaded in the application for condonation of delay before the Sub-Divisional Officer. It was sought to be urged that the petitioners became aware of the order when respondent Nos.1 to

3 had shown the 7/12 extract of the suit land to them in the year 2013-2014. It was further submitted that the petitioners were away from the village for livelihood and, therefore, they were unaware of the passing of the order which was sought to be impugned in the appeal before the Sub-Divisional Officer.

6. None of these reasons inspire confidence. It is true that ordinarily the Courts liberally construe an application for condonation of delay. The courts lean in favour of condonation of delay so as to advance the cause of substantive justice. However, in the case at hand, for an inordinate delay of about 39 years no cause much less sufficient one has been ascribed for the condonation. It seems that the petitioners case wavered from one end to another. The learned Member, MRT, committed no error in declining to interfere in the order passed by the Sub-Divisional Officer in exercise of revisional jurisdiction.

7. Thus, no case is made out to interfere with the impugned order in exercise of extraordinary writ jurisdiction.

8. Hence, the petition stands dismissed.

[N. J. JAMADAR, J.]