

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.2020 OF 2018

(CHANDRASHEKHAR LAXMIKANT KHARPATE....VS.. BHURARAM NAGO BHONDE & OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.P.Kshirsagar, Advocate for Petitioner.
Shri S.P.Hedaoo, Advocate for Respondent No.1.

CORAM : ANIL S. KILOR, J.
DATED : FEBRUARY 08, 2023.

1. Heard.
2. The judgment and order dated 12/07/2017 passed by the Maharashtra Revenue Tribunal, remanding the matter to the Sub-Divisional Officer to decide the appeal bearing No.13 of 2003-04 afresh is under challenge in this writ petition.
3. From the record, it is apparent that in the earlier round the Maharashtra Revenue Tribunal ("Tribunal") remanded the matter to the Sub-Divisional Officer by making following observations :

“Having perused the order dated 30/06/2005 passed by Sub-Divisional Officer, Katol it clearly discerns that the learned Sub-Divisional Officer without considering all other details and facts in the application for condonation of delay perfunctorily observed that the appeal prima facie was barred by limitation, and there was no reason to admit the appeal without any evidence. Obviously; the order is very

cryptic, and not at all justifiable. It is however admitted that the appeal was prima facie time barred. In the circumstance; I am of the view that in the interest of justice and fair trial the revision should be allowed and the matter be remanded back to Sub-Divisional Officer for deciding it afresh."

And passed the following order:

1) The impugned orders are hereby set aside, and the appeals No.13/2003-04 and 11/2003-2004 of Mouza Mowad are hereby remanded back to Sub-Divisional Officer, Katol for deciding both of them afresh.

2) The Sub-Divisional Officer is hereby directed to decide both these applications on merit by giving full opportunity to both the parties and all other necessary parties to submit their say and evidence.

3) Revisions are accordingly disposed of.

4) Record and proceedings be sent back to Sub-Divisional Officer, Katol."

4. Thus, from the order passed by the Tribunal, it is evident that, while remanding the matter in earlier round, there were clear observations made by the Sub-Divisional Officer that, without considering the reasons stated in the application for condonation of delay, the Sub-Divisional Office has observed that the appeal is barred by limitation.

5. The learned Tribunal has, therefore, held that the order of the Sub-Divisional Officer was cryptic and not justifiable. Accordingly, the matter was remanded back.

6. It is evident from the record that, even after remand, the Sub-Divisional Officer did not consider the observations made by the Tribunal and therefore, in revision again the Tribunal has observed that the Sub-Divisional Officer without deciding the issue of *locus standi* and without making any comments as regards the grounds mentioned in the application for condonation of delay, decided the appeal. Accordingly, once again the matter was remanded for proper consideration.

7. In the above referred backdrop, I am not convinced with the submission of the learned counsel for the petitioner that for the reasons that the Sub-Divisional Officer has not complied with the directions of the Tribunal and did not consider the observations made in the order by the Tribunal, the Tribunal ought to have allowed the revision in favour of the petitioner.

8. Once there are the findings by the Tribunal that Sub-Divisional Officer, without following proper procedure and without recording proper reasons decided the proceedings, the only option left with the Tribunal was to remand the matter and it was accordingly done.

9. As far as the grounds as regards the *locus standi* and other grounds on merits, those can be argued before the Sub-Divisional Officer. In the circumstances, I do not find any merit in the present writ petition. Accordingly, I pass the following order:

- i) The Writ Petition is **dismissed**.
- ii) It is made clear that all the points raised in the present writ petition are kept open and the same shall be considered and decided by the Sub-Divisional Officer on its own merit.
- iii) The Sub-Divisional Officer is directed to decide the appeal, according to law, after taking into consideration the observations made by the Maharashtra Revenue Tribunal and after hearing both the parties, within three months from the date of production of copy of this order.

In the circumstances, there shall be no order as to costs.

JUDGE

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