

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 2731 OF 2018

1. Diwakar S/o. Wasudeorao Banubakode,
aged about 68 years, Occupation :
Agriculturist, Resident of Falegaon,
Tahsil : Babhulgaon, Dist. Yavatmal.
2. Sou. Shobha Diwakar Banubakode,
aged about 60 years, Occupation :
Agriculturist, Resident of Falegaon,
Tahsil : Babhulgaon, Dist. Yavatmal.
3. Ku. Manisha Diwakar Banubakode,
(After marriage name – Manisha
Nilesh Chende), aged about 40 years,
Occupation : Household and
Agriculturist, Resident of Achalpur
(Old City), Tahsil : Achalpur,
Dist. : Amravati.

.... **PETITIONERS**

// VERSUS //

1. Sou. Durgabai Babarao Adsad
(Before marriage Durgabai D/o.
Rangrao Gandole), aged about 63
Years, Occupation : Agriculturist
and Household, Resident of Falegaon,
Tahsil : Babhulgaon, Dist. Yavatmal.
2. Sou. Lilabai Vasandtrao Dhakulkar,
aged about 70 years, Occupation :
Agriculturist, Resident of Falegaon,
Tahsil : Babhulgaon, Dist. Yavatmal.

- 2(i) Mahadeo Vasantryao Dhakulkar,
Aged about 45 years, Occupation :
Agriculturist.
- 2(ii) Gunwanta Vasantryao Dhakulkar,
Aged about 50 years, Occupation :
Agriculturist,
Both R/o. Falegaon,Tq: Babhulgaon,
District : Yavatmal.
3. Sou. Chandrakala Nanaji Naikwad,
aged about 50 years, Occupation :
Agriculturist, Resident of Falegaon,
Tahsil : Babhulgaon, Dist. Yavatmal.
4. State of Maha. Through
Sub Divisional Officer, Yavatmal,
Tahsil & District : Yavatmal.
5. Tahsildar, Babhulgaon,
Tahsil : Babhulgaon, Dist. : Yavatmal.

.... RESPONDENTS

Shri M.I.Dhatrak, Advocate for Petitioners.
Shri V.N.Patil, Advocate for Respondent No.1.
Shri D.P.Thakre, Addl.G.P. for Respondent Nos.4 & 5.

CORAM : ANIL S. KILOR, J.
DATED : JUNE 14, 2023.

ORAL JUDGMENT :

1. Heard learned counsel for the petitioners, learned
counsel for respondent No.1 and learned Additional Government

Pleader for Respondent Nos. 4 and 5. None for the Respondent Nos. 2 (i), 2(ii) and 3 though served.

2. **RULE.** Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties.

3. The order dated 30/08/2013 passed by Maharashtra Administrative Tribunal rejecting the application for bringing Legal Representatives of the applicant-Wasudeo Baliram Banubakode on record, is under challenge in this writ petition.

4. On perusal of the order, it reveals that the Tribunal has rejected the application only on the ground that there is a huge delay in moving such application and thereby the applicant is trying to delay the proceedings. The Tribunal, accordingly, not only rejected the application for condonation of delay in filing the application for bringing legal representatives of the applicant-Wasudeo on record, but also dismissed the revision as barred by limitation.

5. It is apparent on the face of record that the Tribunal has failed to appreciate that after the death of the sole applicant as the application for bringing legal representatives was not moved within the period of limitation, the revision itself was abated and therefore, there is no question of dismissal of the revision on the ground of delay. Thus, it is evident that the Tribunal has dismissed an abated revision. Furthermore, the reasons recorded by the learned Tribunal for rejecting the application for condonation of delay in filing the application for bringing legal representatives of the applicant-Wasudeo on record is not justifiable and sustainable in the eyes of law.

6. In the circumstances, I am of the opinion that the learned Tribunal has committed error in recording perverse finding which needs interference by this Court.

7. Accordingly, I pass the following order:

- i) The Writ Petition is allowed.

- ii) The impugned order dated 30/08/2013 passed by the Maharashtra Revenue Tribunal, Nagpur in Revision Application No.43/TEN/B/51/2000 is hereby quashed and set aside, consequently the application for condonation of delay in filing application for bringing legal representatives of the applicant-Wasudeo Banubakode on record is allowed.

Rule is made absolute accordingly. No order as to costs.

JUDGE

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