

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

WRIT PETITION NO. 4617 OF 2018

Shri Dr. Ravindra S/o Ambardasji Saokar, Aged
about 65 years, Occ. Doctor, R/o 105, 106,
Govind Apartment, Shankar Nagar Chowk,
Nagpur

...Petitioner

// VERSUS //

1. State of Maharashtra,
through the Divisional Commissioner,
Nagpur Division, Nagpur
2. Collector, Chandrapur,
District Chandrapur
3. Superintendent Land Records, Chandrapur
4. Taluka Investigation Officer, Land Records,
Bramhapuri, Tah. Bramhapuri, District
Chandrapur
5. Barai Samaj Bramhapuri, through its Secretary,
Pundalik Sukruji Galgate, Age Major, R/o
Baraipura, Bramhapuri, Tah. Bramhapuri, Dist.
Chandrapur

... Respondents

Shri A.S.Manohar, Advocate for the petitioner.

Ms. H.N.Jaipurkar, AGP for the respondent nos. 1 to 4.

Shri N.R.Bhisikar, Advocate for the respondent nos. 5.

CORAM : ANIL S. KILOR, J.

DATED : 3rd JULY, 2023.

ORAL JUDGMENT :

Heard. Rule. Rule made returnable forthwith. Heard finally
by consent of the parties.

2. In this writ petition, the challenge is raised to the order dated 6th March, 2018, passed by the Additional Commissioner, Nagpur Division, Nagpur condoning the delay for filing an appeal under Section 247 of the Maharashtra Land Revenue Code, 1966 (in short hereinafter referred as “MLR Code, 1966”) raising a challenge to the order dated 6th July, 2001 passed by the Collector thereby correcting the revenue map and adding the name of the petitioner.

3. Shri Manohar, learned counsel for the petitioner points out that the order of the Collector dated 12th June, 2015, was challenged by Barai Samaj, Bramhapuri through its Secretary, whereas, the said society has no right, title or interest in the land in question. It is pointed out that the said society no way related or connected with the land in question and therefore the said society has no locus to file an appeal or application for condonation of delay challenging the order passed by the Collector dated 12th June, 2015.

4. In reply Shri Bhishikar, learned counsel for the respondent no.5 submits that land in question i.e. Gat No. 522 is owned by the members of Barai Samaj i.e. respondent no.5. It is submitted that there are 350 owners of the said land and they all are members of Barai Samaj Bramhapuri and therefore an appeal can be maintained at the behest of the said Society.

5. In light of rival contentions of the parties, I have perused the record and the impugned order.

6. Admittedly, the respondent no.5 Society is claiming that its members are the owners of adjoining land Gat No. 522 of the land in question. Undisputably the owners of the land Gat No. 522 never approached to the Additional Commissioner by filing an appeal. There is no dispute that as a Society, the respondent no.5 is no way connected with the land in question or Gat No. 522 of which its members are claiming ownership.

7. In the circumstances, I have no hesitation to hold that, at the instance of the respondent no.5, no appeal can be maintained in this matter and consequently the application for condonation of delay, cannot be entertained at the behest of the respondent no.5 who has no locus in the present matter. Thus, I am of the opinion that the impugned order needs to be quashed and set aside. Accordingly, I pass the following order.

i. Writ Petition is allowed;

ii. Order dated 6th March, 2018 passed by the respondent no.1- The Additional Commissioner, Nagpur Division, Nagpur in Case No. 10/MRV/SRV-43/Mouza-Bramhapuri/2016 is hereby quashed and set aside;

iii. Liberty is granted to the individual owners of Gat No. 522 to file an appeal along with an application for condonation of delay, if so desire. If such application is filed, the concerned authority shall take into consideration, the time period exhausted in pursuing the proceeding for

application for condonation of delay before the Additional Commissioner and in the present writ petition, while considering the issue of limitation.

[ANIL S. KILOR, J.]