

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2313 OF 2020

1. Raghu s/o Gangaram Kale
Age 65 years, Occu. Agri.,
2. Ashroba s/o Gangaram Kale
Age 60 years, Occu. Agri.,
3. Gajanan s/o Ashroba Kale
Age 30 years, Occu. Agri.,
4. Kantabai w/o Ashroba Kale
Age 55 years, Occu. Agri.,

All R/o. Shelgaon (Ha.) Taluka
Sonpeth, District Parbhani.

...Petitioners

Versus

1. The State of Maharashtra
Through Department of Land Revenue
Mantralaya, Maharashtra State Mumbai.
2. The Superintendent of Land Records
Parbhani District Parbhani.
3. The Deputy Superintendent of Land Records
Sonpeth, Taluka Sonpeth, District Parbhani.
4. Ramakant s/o Ramkisan Kale
Age 38 years, Occu. Agri.,
R/o. Shelgaon (Ha.) Taluka
Sonpeth, District Parbhani.

...Respondents

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Advocate for the Petitioners : Mr. Imale Ramesh R.
AGP for Respondent/State : Mrs. R.R. Tandale
Advocate for Respondent No.4 : Mr. S.P. Joshi & Mr. S.A. Shaikh

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CORAM : S.G. MEHARE, J.

DATED : JANUARY 03, 2024

ORDER :-

1. Heard learned counsel for the petitioners and learned counsel for the respondents.
2. The present writ petition is preferred against the order of District Superintendent of Land Records, Parbhani in Ekatri/Appeal/Pra.Su.No.Kr. 307/18/2019 dated 05.04.2019. The respondents had preferred an application for condonation of delay for correction of the area of the land. It was a delay of around 49 years. However, considering the facts and circumstances of the case, the District Superintendent of Land Records condone the delay by his order dated 05.04.2019. Against the said order, the petitioners have filed the present writ petition.
3. Learned counsel for the respondents has objected that the writ petition can not be entertained since an alternate remedy is available. To bolster his arguments, he relied on the Saleem Bin Awad Chause Vs Sk. Abdulla Ali Chaus in Writ Petition No.7470 of 2011 dated 20.10.2011.
4. Learned counsel for the petitioners would submit that he had been to the Office of Superintendent of Land Records with a petition to impugn the order impugned before this Court. However, his petition was not accepted. The petitioners were orally told that such petitions are not maintainable before the said authority. Hence, they approached this Court.

5. The oral statement of any authority has no value. Every authority must receive the petitions, register them and pass a judicial order. Unfortunately, there are a large number of complaints that the revenue authorities orally refuse to receive the petitions. They did not maintain the record appropriately. They should have to maintain the register of the petitions, but it seems that it is not strictly followed. The Maharashtra Land Revenue Code is a complete code to entertain the applications, appeals, revisions and review applications. The respondents had preferred an appeal with an application for condonation of delay. It was an order by which the petitioners were allegedly affected. In the case of Saleem Bin Awad Chause (cited supra), in para 4, it has been observed thus:

“4. Section 252 of the Maharashtra Land Revenue Code bars the remedy of appeal, if appeal or an application for review is admitted or rejecting an application for revision and review or granting and rejecting application for stay. The effect of application allowing condonation of delay would be that the appeal is admitted. In view of that appeal would not be maintainable, but there is no bar for authority to exercise the revisional jurisdiction under Section 257 of the Maharashtra Land Revenue Code.”

6. The facts of the above case were that the respondent had preferred the appeal before the Superintendent of Land Records with an application for condonation of delay. The Superintendent of Land Records condoned the delay. Aggrieved thereby, the revision was filed

before the Deputy Director of Land Records. However, he dismissed the said revision on the ground that the same is not maintainable.

7. In view of the above, this Court is of the view that oral denial to accept the petition against the impugned order is nothing but a misuse of power and deprives the poor litigants from exercising their legal rights. The Revenue Authority is a quasi-judicial authority. They are bound to make an enquiry, examine the facts of the case under the provisions of law and adjudicate the disputes. But this seems not happened in this case. As the remedy under the Maharashtra Land Revenue Code is available, the petitioners have a right to exercise the remedy against the impugned order under Section 252 of the Maharashtra Land Revenue Code. Hence, the following order :

ORDER

- I) The petition is disposed of as an alternate remedy is available to them.
- II) The petitioners are at liberty to prefer the revision under Section 252 of the Maharashtra Land Revenue Code before the Competent Authority or any other remedy available to them.
- III) While considering the petitions, if any, preferred by the petitioners, the time spent before this Court from 2020 till today shall be considered for condonation of delay.

IV) The stay to the impugned order granted by this Court would continue for two months from today.

(S.G. MEHARE, J.)