

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11239 OF 2019.

Akaram Tukaram More (since decd) Thru Lrs. ...Petitioners.

Versus

Shri. Vasant Tukaram More
And Ors. ...Respondents.

Mr. Aditya S. Raktade for the petitioners.
Mr. S. S. Patwardhan i/b Mr. Bhushan R. Mandlik for respondent No.3 to
5.

Coram : Sharmila U. Deshmukh, J.

Date : 9th July, 2024.

P. C. :

- 1.** Heard.
- 2.** By this petition, the challenge is to the order of 7th January 2019 passed by the Maharashtra Revenue Tribunal rejecting the application seeking condonation of delay of 120 days caused in preferring the revision application against the order of Sub Divisional Officer dated 28th November 2016.
- 3.** Revision application for condonation of delay was preferred by petitioners against the order of Sub-Divisional Officer dated 28th

November 2016. It was pleaded that the petitioners received notice of the order of Sub-Divisional Officer on 28th December 2016 and the certified copy was received on 5th January 2017. It was further pleaded that the member of the family who was looking after the litigation was unwell and he recovered in the month of April-2017. Thereafter the concerned person approached the office of the advocate and was informed that the advocate due to summer vacations was out of the country. It was further pleaded that the Advocate's father was not well and therefore there was further delay and ultimately in the month of June 2017 the Revision Application along with application for condonation of delay came to be filed.

4. By order dated 7th January 2019 the Authority did not accept the explanation submitted in the application for condonation of delay as there was no documentary evidence produced in support of the grounds taken. Another reason why the application came to be rejected was that during the pendency of the application, some of the respondents had expired and the application for condonation of delay stood abated as against the said persons.

5. Learned counsel for the applicant submits that sufficient explanation has been tendered for delay and despite thereof reasons were not accepted.

6. Learned counsel for the private respondents would submit that

apart from the fact that no cogent reasons were advanced for condonation of delay, some of the respondents had expired and as such application stood abated against the deceased respondents which was not remedied by the petitioners.

7. Considered the submissions and perused record.

8. What assumes significance is that revision applicants are all agriculturists, who have approached MRT against the order of Sub-Divisional Officer. Even if there has been some delay whether of 120 days or 239 days, the delay is not such a colossal delay which could not have been condoned or which could have resulted in prejudice being caused to the respondents. The settled position in law is that liberal approach is required to be adopted while considering the application for condonation of delay, unless the material on record demonstrates complete negligence and lack of diligence.

9. In the application, the explanation has been tendered for the delay of 120 days and it is not necessary that each and every explanation tendered has to be supported by documentary evidence. What is required to be considered is whether there is inordinate unexplained delay that has caused prejudice to the other side which would disentitle the petitioners to the relief of condonation of delay. In the present case, there is no reason to disbelieve the explanation tendered. The explanation submitted should be considered in entirety

against the facts and circumstances of each case particularly taking into consideration the status of the revision applicants, who are agriculturists and cannot be said to be well aware of the legal procedures.

10. In light of the above, impugned order dated 7th January 2019 is hereby quashed and set aside.

11. In view of the fact that some of the respondents had expired during the pendency of application for condonation of delay, necessary steps will have to be taken by the petitioners before the application for condonation of delay can be allowed. As such application is restored to file of MRT.

12. Let necessary application be taken out for setting aside the abatement *qua* the deceased respondents by the petitioners within a period of 4 weeks from the date of uploading of this order. MRT to decide the application in light of the observations made above.

13. Petition disposed of in the above terms. In view of disposal of petition, Interim/Civil Applications, if any, do not survive for consideration and stand disposed of.

[Sharmila U. Deshmukh, J.]