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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3996 OF 2023**

Shri Hirachand Kevalchand Ghandhi and Ors ... Petitioners

VS.

Shri. Gajanan Ram Patil and Ors ... Respondents

Mr. Milind Parab i/b. Milind Parab and Associates, for Petitioners.

Mr. Yogesh Dandekar for Respondent nos. 1 to 3.

Mr. C.D. Mali, AGP for Respondent-State.

CORAM : GAURI GODSE, J.

DATED : 30th JANUARY, 2024

P.C. :-

1. Heard.
2. Parties have agreed that the petition can be disposed of finally at admission stage.
3. This petition takes exception to the order dated 6th February 2023 passed by the Additional Collector, Raigad Alibag, District Raigad in the revision application filed by the petitioners under section 257 of the Maharashtra Land Revenue Code, 1966 ('MLR Code').

4. Learned counsel for the petitioners submits that the Additional Collector has erroneously rejected the revision application by holding that the order impugned before him was not an appealable order.

5. Learned counsel for the petitioners submits that the revision application was filed for challenging order dated 27th December 2022 passed by the Sub Divisional Officer, allowing the application for condonation of delay filed by the respondent nos. 1 to 3. He submits that the Additional Collector has referred to the provisions of sections 251 and 252(c) read with section 259 of the MLR Code and rejected the revision application, considering the same as an appeal.

6. He however, submits that the order impugned before the Additional Collector is revisable under section 257 of the MLR Code. In support of his submissions, he placed reliance upon the decision of this Court in case of *Ahmed Ambir Shaikh(deceased) thr. Lrs. Mukhtyar Esmael Shaikh and Ors v Abdul Rahiman Ambire Shaikh (deceased) thr. L.R. Safiya Khalil Shaikh and Ors*¹.

7. Learned counsel for respondent nos. 1 to 3, fairly supports the legal submissions made on behalf of the petitioners. Learned

¹ Writ Petition no. 15106 of 2022, dated 14th December 2022.

AGP is also unable to support the impugned order, though he states that the learned Additional Collector has rightly referred to the provisions under MLR Code for passing impugned order.

8. Perused the papers. I have considered the aforesaid submissions. Perusal of the impugned order indicates that the petitioner had filed revision application under section 257 of the MLR Code for challenging the order dated 27th December 2022 passed by the Sub-Divisional Officer allowing the delay condonation application filed by respondent no.1 in the appeal filed under section 247 of the MLR Code. The Additional Collector has rejected the revision application only on the ground that the order of condonation of delay is not appealable. He has not considered the revision on merits.

9. This court in the decision of ***Ahmed Ambir Shaikh*** and in the case of ***Ramanlal Bakliwal*** has held that the order of condonation of delay and subsequent admission of appeal under section 251 of the MLR Code is revisable under section 257 read with section 259 of the MLR Code.

10. In view of the aforesaid, writ petition deserves to be allowed by passing following order:

I) The impugned order dated 6th February 2023, passed by the Additional Collector, Alibag-Raigad in Revision Application No. 32 of 2023 is quashed and set aside.

II) The Revision Application No. 32 of 2023 is restored to the file of the Additional Collector, Alibag Raigad, District Raigad for decision on merits.

11. It is clarified that, I have not examined the rival contention of the parties on merits. Hence, all contentions of all parties are kept open.

12. Writ petition stands disposed of in the above terms.

(GAURI GODSE, J.)