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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

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**WRIT PETITION NO.7207 OF 2002
WITH
CIVIL APPLICATION NO.1602 OF 2005
IN
WRIT PETITION NO.7207 OF 2002**

Suresh Govind Salunkhe & Ors. ... Petitioners
V/s.
The State of Maharashtra & Anr. ... Respondents

Ms. Smita Mhatre for the petitioners.
Ms. D. S. Deshmukh, AGP for the State.

CORAM : AMIT BORKAR, J.

DATED : MAY 3, 2024

P.C.:

1. By this writ petition under article 227 of the Constitution of India, the petitioners are challenging order dated 29 July 2002 passed by the Additional Commissioner, Konkan Division, Mumbai allowing Revision Application No.Appeal/Desk/RTS/Revision/75 of 2001 arising out of proceedings under sections 149 and 150 of the Maharashtra Land Revenue Code, 1966 whereby mutation entries effected in the year 1939 and 1982 have been set aside by entertaining appeal filed in the year 2000. The facts giving rise to present writ petition are as under:

2. Mutation Entry No.360 was effected on 23 January 1939,

which was in the name of father of the petitioners in relation to Survey No.107-A(1)2B. After his death on 10 January 1974, another Mutation Entry No.1581 was effected on 6 June 1982 recording petitioners name in the revenue record.

3. Respondent No.2 filed Appeal No.RTS/Appeal/24 of 2000 before the Sub-Divisional Officer, Panvel, District Raigad challenging Mutation Entry No.1581 dated 6 June 1982 and Mutation Entry No.360 dated 23 January 1939. The Sub-Divisional Officer, by order dated 30 April 2001, partly allowed the appeal setting aside the mutation entries in favour of the petitioners. Aggrieved thereby, the petitioners filed revision application before the Additional Commissioner. The Additional Commissioner, by order dated 29 July 2002, dismissed the revision application. Hence, the petitioners have filed present writ petition.

4. This Court, on 8 July 2003, issued rule and granted ad-interim relief. On 8 July 2019, the writ petition was dismissed for non-prosecution, however, on 21 February 2024 the writ petition came to be restored and it is placed for final hearing on 8 March 2024. On 8 March 2024, learned advocates for the petitioners and respondent No.2 appeared. However, today none appears for respondent No.2.

5. On perusal of the record, it appears that respondent No.2 failed to file application for condonation of delay in challenging mutation entry effected in the year 1982 by way of appeal in the year 2000. In absence of the application for condonation of delay and order of condonation of delay, the Sub-Divisional Officer had

no jurisdiction to set aside the mutation entry effected in the year 1982. Therefore, the impugned orders passed by the Sub-Divisional Officer and the Additional Commissioner deserve to be quashed and set aside. Hence, rule is made absolute in terms of prayer clause (a).

6. The writ petition stands disposed of. No costs.

7. In view of the disposal of the writ petition, all pending interlocutory application(s) stands disposed of as infructuous.

(AMIT BORKAR, J.)