

Shabnoor

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

WRIT PETITION NO.9332 OF 2022

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Babu Ranu Kushare ... Petitioner

V/s.

The State of Maharashtra & Ors ... Respondents

**WITH
WRIT PETITION (ST) NO.23513 OF 2021**

Babu Ranu Kushare ... Petitioner

V/s.

The State of Maharashtra & Ors ... Respondents

Mr. Sachin D. Kadam, for Petitioner.

Mr. Rameshwar N. Gite i/by Mr. Hiten P. Shah, for
Respondent No.4.

Mr. S. D. Rayrikar, AGP for State/Respondent Nos.1 to
3.

CORAM : AMIT BORKAR, J.

DATED : APRIL 16, 2024

P.C.:

1. The petitioner is challenging the order passed by respondent No.1 dated 22 July 2019 and orders dated 30 November 2015, 1 January 2022 passed by the District Superintendent of Land Records, Nashik in Appeal No.472 of 2024.

2. The writ petitions arisen out of proceedings under the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947. The consolidation scheme was completed in the year 1973-1974. Respondent No.4 challenged the exercise of allotment of plots by filing Appeal No.269 of 2014. According to the petitioner, the Appellate Authority condoned the delay of 40 years.

3. However, the learned AGP, on instructions makes a statement the record does not indicate existence of the order of condonation of delay.

4. The Appellate Authority considered the proceedings on merit and dismissed respondent No.4's Appeal. The respondent No.4 aggrieved by order of Appellate Authority approached the District Superintendent of Land Records, Nashik who allowed respondent No.4's Appeal. Aggrieved thereby the petitioner filed revision application before respondent No.1 which has been dismissed by the impugned order. Hence, the present writ petitions.

5. As recorded earlier, there were delay of 40 years in filing the Appeal before the District Superintendent of Land Records, Nashik, learned AGP, on instruction, states that in the record of Appeal No.269 of 2014, the order of condonation of delay is not found. Therefore, it has to be presumed no order of condonation of delay was passed by the Appellate Authority, particularly in view of failure of respondent No.4 to produce copy of such order. Therefore, the Appellate Authority needs to consider the

Application for condonation of delay filed by respondent No.4 for filing Appeal No.269 of 2014. Hence, following order:

(i) The impugned orders passed by respondent No.1, orders passed by respondent Nos.2 and 3 along with consequential order dated 11 January 2022 are quashed and set aside.

(ii) Proceedings are remanded back to the District Superintendent of Land Records, Nashik for consideration of application for condonation of delay filed by respondent No.4.

(iii) The Appellate Authority shall grant an opportunity of hearing to both sides and shall pass order on an Application for condonation of delay in accordance with law.

6. Both the writ petitions stand disposed of in above terms. No costs.

(AMIT BORKAR, J.)