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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 10425 OF 2023**

Shyamsundar Radheshyam Agarwal ... Petitioner

vs.

Rohidas Hari Patil through his Legal Heirs ... Respondents

Mr. Sandesh D. Patil i/b. Mr. Pavan Patil, for Petitioner.

Mr. Drupad Sopan Patil a/w. Mr. Suyash S. Sule for Respondent  
Nos. 1 to 20

Mr. Mukesh Parekh, POAH of Respondent Nos. 1 to 20.

Mrs. M.S. Bane, AGP for State.

**CORAM : GAURI GODSE, J.**

**DATED : 5<sup>th</sup> MARCH, 2024**

**P.C. :-**

1. This petition takes an exception to the order dated 9<sup>th</sup> August 2023, passed in Review Application filed by respondent nos. 1 to 20, decided by the learned Minister i.e. respondent no. 32. Respondent nos. 1 to 20 are the contesting parties in whose favour the impugned order is passed. Learned counsel for the petitioner submits that respondent nos. 21 to 27 are formal parties. Respondent nos. 28 to 33 are represented by learned AGP. Hence, considering the submissions made on behalf of the petitioner, this

petition is taken up for final disposal.

2. Learned counsel for the petitioner submitted that all the orders passed by the Revenue Authority challenging the mutation entry in favour of the petitioner have confirmed the mutation entry. He submits that after the order was passed by the learned Minister, a Review application was filed by respondent nos. 1 to 20, along with an application for condonation of delay.

3. He submits that by order impugned in this petition, the learned Minister has passed an order allowing the Review Application without deciding the application for condonation of delay. He submits that the petitioner has raised a specific ground that the Review Application itself is not maintainable. He submits that in a non-maintainable Review Application, the learned Minister has allowed the Review Application without passing any order on the application for condonation of delay.

4. Learned counsel appearing for respondent nos. 1 to 20 does not dispute that the Review Application is allowed without considering the application for condonation of delay. He does not dispute that the delay condonation application was kept pending

and without passing any order on the delay condonation application, the Review Application of respondent nos. 1 to 20 is allowed by the learned Minister. He therefore submits that the matter be remitted back to the learned Minister for deciding the application for condonation of delay first before deciding the Review Application. Learned counsel for respondent nos. 1 to 20 submits that on the instructions of the power of attorney holder of respondent nos. 1 to 20 who is present in the court, the aforesaid submissions are made on behalf of respondent nos. 1 to 20.

5. Learned counsel for the petitioner submits that the contention of the petitioner that the Review Application itself was not maintainable needs to be decided at the time of hearing the delay condonation application. Learned AGP does not dispute that the application for delay condonation was not decided before hearing and allowing the Review Application.

6. In view of the aforesaid submissions, the matter needs to be remitted back to the learned Minister for first deciding the delay condonation application in the Review Application. It is not in dispute that there was a delay in filing the Review Application. However, without deciding the delay condonation application, the Review Application is allowed. Hence, the petition needs to be partly

allowed, remitting the matter back to the learned Minister, for first deciding the delay condonation application and then hear the Review Application on merits depending upon the decision on the delay application.

7. For the reasons stated above, the Writ Petition is partly allowed by passing the following order:

- I) Order dated 9<sup>th</sup> August 2023, passed by the learned Minister(Revenue) in RTS No. 2723 is quashed and set aside.
- II) The Application for condonation of delay filed by respondent nos. 1 to 20 shall be decided first before entertaining the Review Application.
- III) After passing a separate order on the application for delay condonation, depending upon the decision on the application for delay condonation, the Review Application be heard on its own merit.
- IV) The petitioner is at liberty to raise the objection on maintainability of the Review Application even at the time of objecting application for condonation of delay.

8. Needless to record that, the rival contentions of all parties on

the Review Application as well as application for condonation of delay are not examined by me on merits. Hence, all contentions of all parties are kept open.

9. Writ petition is disposed of in the above terms.

**(GAURI GODSE, J.)**