

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11926 OF 2023

Dharma Ladaku Mhaskar Since Decd.

Thr. Legal Heirs

...Petitioner

Versus

Radhakrushna Mandir Panvel Vahivatdar

Prabhakar Ganpat Samel Decd Thr. S. P. Samel

...Respondents

WITH

WRIT PETITION NO.11923 OF 2023

Ram Haushiram Patil

...Petitioner

Versus

Radhakrushna Mandir Panvel Vahivatdar Prabhakar

Ganpat Samel Decd Thr. S. P. Samel

...Respondents

WITH

WRIT PETITION NO.11927 OF 2023

Rohidas Dharma Mhaskar And Ors.

...Petitioners

Versus

Radhakrushna Mandir Panvel Vahivatdar Prabhakar

Ganpat Samel Decd Thr. S. P. Samel

...Respondents

Mr. Rohit Joshi for the Petitioners.

Mr. Kishore Patil i/b Mr. Manish R. Bohra for Respondent No.1.

Mr. Sachindra B. Shetye i/b Mr. P. K. Rahade for Respondent No.2.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : 4th MARCH, 2024

P. C. :

1. After the matter was argued for some time, learned counsel for the parties on instructions submits that the matter be remanded to the Sub-Divisional officer for consideration of the Application afresh.
2. Considering that no sufficient particulars in support of the relief of condonation of delay finds place in RTS Appeal No.289/2021, in view of consensus of the parties RTS Appeal No.289/2021 is remanded to the office of Sub-Divisional Officer to be considered afresh. The appellants in RTS Appeal No.289/2021 are permitted to file Additional Affidavit placing on record particulars in support of their plea for condonation of delay.
3. The respondents are entitled to file their Reply to the Additional Affidavit. In my opinion , it would be in fitness of things if the appeal is heard by Sub-Divisional Officer other than the Sub-Divisional Officer who has heard earlier RTS Appeal No.289/2021. Let the Collector, Raigad transfer RTS Appeal No.289/2021 to any other Sub-Divisional officer other than the Sub-Divisional officer, who has heard the earlier RTS Appeal No.289/2021.

4. In view of the above, the impugned orders dated 23rd January 2023, 7th September 2023 and 7th August 2023 are hereby quashed and set aside. Appeals are restored to file to be decided afresh as directed above.

5. Writ Petitions are accordingly disposed of.

6. Mr. Shetye learned counsel for Respondent No.2 in Writ Petition No.11926/2023 submits that he has consented to the condonation of the delay. Learned counsel submits that upon notice the respondent No.2 had appeared before the Sub-Divisional officer and has consented to the delay being condoned. On instructions he submits that respondent No.2 has surrendered his portion 74.70 R in favour of Respondent No.1-Trust.

(SHARMILA U. DESHMUKH, J.)