

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

WRIT PETITION NO. 5187 OF 2024

Baban Dharma Bhoir And Ors. ...Petitioners
Versus
Sitaram Janu Bhoir (since Deceased
Represented Through His Heirs And Ors. ...Respondents

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Mr. Dushyant Pagare, for the Petitioner.

Ms. V. S. Nimbalkar, A.G.P. for the Respondent – State.

Mr. Chaitanya B. Nikte, i/b Mr. Prajit S. Sahane, for Respondent Nos.
1.1 to 1.4 & 4.

Mr. R. A. Kale, for Respondent Nos. 6, 7, 9 and 10.

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CORAM : AVINASH G. GHAROTE, J.
DATE : 1st AUGUST, 2024

P.C.:

1. Heard Mr. Dushyant Pagare, learned counsel for the petitioner and Mr. Chaitanya B. Nikte, learned counsel respondent 1.1 to 1.4 and 4, Ms. V. S. Nimbalkar, learned AGP for Respondent Nos. 2 and 3 and Mr. R. A. Kale, for respondent Nos. 6, 7, 9 and 10,

2. The petition questions the order dated 14.02.2024, which condones a delay of nearly about 7 years 4 months, in filing a

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revision against the order dated 07.04.2016 passed by the Additional Commissioner, Konkan Division. The learned counsel for the petitioner, submits that there is no sufficient cause for condoning the delay. He further submits that already a suit for partition and separate possession, bearing RCS No. 107 of 2013 filed by the present petitioner against the respondent Nos.1.1 to 10 is pending, in which the properties in respect of the Mutation Entries are being questioned, are also the subject matter. He therefore, submits that since there is no sufficient cause shown the delay be not condoned and the petition be allowed.

3. The learned counsel for the respondent Nos. 1.1 to 1.4 & 4 and other respondents justifies the delay, on the ground that the Sitaram Janu Bhior, their father who was looking after the litigation, did not keep them abreast of the same, as a result of which they were not aware of the passing of the impugned order dated 07.04.2016 and the revision has been filed as soon as they become aware of this. Sitaram Bhoir, is said to have passed away after the order dated 07.04.2016 by the Additional Commissioner. He therefore submits that there is a reasonable justification for

condoning the delay and offers a sum of Rs. 2 lakhs as compensation for any inconvenience which may have been caused to the present petitioner.

4. Since it is not in dispute that RCS No. 107 of 2013, is pending between the parties in which the right, title and entitlement, to the lands in question, in respect of the Mutation Entries which are the subject matter of the revision is pending, there cannot be any doubt that the order which may be passed in that suit shall ultimately govern the rights of the parties and the Mutation Entries shall have to be accordingly modified to bring them in consonance, with what would be stated in the decree.

5. The fact however remains that Sitaram Janu Bhoir, was the person who was contesting the proceeding before the Additional Commissioner and the petitioners claim to be unaware of the proceedings on account of the above. Sitaram has passed away after the decision before the Additional Commissioner. The reason therefore has some plausibility in view of which by accepting the offer made by the learned counsel for the respondent Nos. 1.1 to 1.4 and 4 to pay a cost of Rs. 2 lakhs, to be deposited in this

Court within a period of one week, the petition is dismissed.

6. In case the costs is deposited, the petitioner, would have liberty to withdraw the same.

(AVINASH G. GHAROTE, J.)