



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 2526 of 2011

nampudi Krishna S/o Joggnath Readdy ..vs.. State of Maharashtra through Naib Tahsildar
Parseoni, Tahsil Parseoni, District Nagpur and ors.]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A. K. Neware, Advocate for the petitioner
Mr. A. M. Kadukar, AGP for respondent nos. 1 and 2

CORAM : ANIL L. PANSARE J.

DATED : 08-10-2024

Heard Mr. A. K. Neware, learned counsel for the petitioner and Mr. A. M. Kadukar, learned Assistant Government Pleader for respondent nos. 1 and 2.

2. One Horilal Pyarelal Yadav was declared as tenant of the subject matter of land under Section 49A of the Maharashtra Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958 (for short 'the Act of 1958'). The then Tahsildar, vide order dated 10-11-1964, declared Horilal as owner of the property. The petitioner has purchased this property vide three sale deeds executed in the year 1985. The respondent no. 3, claiming herself to be legal representative of the original owner, has filed application before the Tahsildar seeking restoration of the land under Section 122 of the Act of the 1958. The application has been filed in the year 2000 i.e. after about 36 years of passing order by the Tahsildar.

3. By order dated 2-6-2001, the Tahsildar, Parseoni has restored the land. This order was challenged before Sub Divisional Officer, who was pleased to dismiss the

appeal. Thereafter the petitioner approached the Maharashtra Revenue Tribunal but suffered same result.

4. Learned counsel for the petitioner submits that the authorities below as also the Tribunal has failed to consider that the proceedings could not have been opened by the Tahsildar after the lapse of 36 years, particularly, in absence of application seeking condonation of delay in filing proceedings under Section 122 of the Act of 1958.

5. There is no dispute that respondent no. 3 has not filed the application seeking condonation of delay. There is further no dispute that said aspect has been not considered by the authorities below. Further, none is appearing for respondent no. 3 to contest the argument made by learned counsel for the petitioner on this point.

6. Thus, the short question is involved whether the Tahsildar could have exercised his jurisdiction under Section 122 of the Act of 1958 after lapse of 36 years.

7. Learned counsel for the petitioner has relied upon judgment of coordinate Bench of this Court at Aurangabad Bench in *Writ Petition No. 2377 of 2011 (Gorakh S/o Bhagwan @ Ganpati Jaybhay Vs. The Sub – Divisional Officer, Karjat, Tq. Karjat, District Ahmednagar and ors.) dated 29-9-2011*. In the said case, Tahsildar has re-opened the proceedings after 27 years without there being any application for condonation of delay. The Court referred to various judgments including the judgment of Hon'ble Supreme Court in the case of *Ragho Singh Vs. Mohan Singh and others [AIR 2011 SCW 2351]* to hold that it was impermissible for the Tahsildar to re-open the

proceedings after such a long span, that too, without application for condonation of delay.

8. In the case of *Ragho Singh Vs. Mohansingh*, the Supreme Court has taken a view that if the appeal is filed beyond time and if application for condonation of delay is not filed, the delay cannot be deemed to have been condoned and the appeal is thus liable to be dismissed.

9. As stated earlier, the coordinate Bench, after taking aid of various judgments including the aforesaid judgment of Hon'ble Supreme Court has upheld the judgment passed by the Maharashtra Revenue Tribunal which had held that the authorities below could not have reopened the file after 27 years.

10. Learned Assistant Government Pleader submits that there is no limitation provided to file application under Section 122 of the Act of 1958 and, accordingly, supported the impugned order. To my mind, this submission overlooks the concept of reasonable time. It is well settled that where the statute does not provide for limitation to file application, the person aggrieved should approach within reasonable time and that the decade old matters cannot be reopened, that too, without assigning any cause, much less, sufficient cause to approach belatedly. The Supreme Court in the case of *State of Punjab and others Vs. Bhatinda District Cooperative Milk Producers Union Ltd. [(2007) 11 SCC 363]* has held that if no period of limitation has been prescribed, statutory authority must exercise its jurisdiction within a reasonable period. The Court further held that what should be the

reasonable period would depend upon nature of the statute, rights and liabilities thereunder and other relevant factors.

11. In the present case, the petitioner, having acquired the title in the year 1964 and being in possession of the suit property for all these years, his title and possession becomes absolute. To disturb the said right, least that could be done by the aggrieved person is to assign reasons in the application for approaching belatedly. The Tahsildar, even otherwise, is duty bound to assign reasons to entertain such application after 36 long years. Having not done so, the Tahsildar could not have reopened the issue after lapse of 36 years, that too without showing sufficient cause for belated action. The authorities below and the Maharashtra Revenue Tribunal has not considered the law on the aforesaid point.

12. The orders impugned, therefore, does not stand scrutiny of law. Accordingly, the order dated 18-3-2011 passed by the Maharashtra Land Revenue Tribunal, Nagpur in Revision No. Ten/B/1/2007 is quashed and set aside. Further, the order dated 21-7-2006 passed by Sub Divisional Officer, Ramtek in Revenue Appeal No. 22/59(32)/2000-2001 as also the order dated 2-6-2001 passed by Tahsildar, Parseoni in Revenue Case No. 1/59-32/1999-2000 are also quashed and set aside.

13. Writ Petition is disposed of in aforesaid terms with no order as to costs.

(Anil L. Pansare, J.)