



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO.877 OF 2023

1. Shri Sudhakar Madhav Gaurkar
Aged about 50 years, Occupation-
Agriculturist, Resident of Ward No. 5,
Near Patwari Office, Tadali,
Chandrapur, Tahsil & District
Chandrapur (Maharashtra State).
 2. Shri Ramesh Madhav Gaurkar,
Aged 44 Years, Occupation
Agriculturist, Resident of 148/A,
Marda, Tahsil - Warora, District -
Chandrapur - 442907 (Maharashtra State)
 3. Sou. Shantabai Pundlik Dodke,
Aged 40 Years, Occupation
Housewife, R/o 13, Khapri Chowk
Tahsil Bhandrawati, District
Chandrapur (Maharashtra State).
 4. Sou. Nanda Subhash Patrakar,
Aged 37 Years, Occupation
Housewife, R/o 33/1, Nidha, Village
Sarai, Taluka - Ralegaon, District
Yavatmal 445 404 (Maharashtra State)
 5. Smt. Manjulabai Madhav Gaurkar,
Aged 70 Years, Occupation
Household, R/o 14, Marda, Tahsil
Warora, District - Chandrapur
(Maharashtra State) 442 907.
- ...PETITIONERS**

...V E R S U S...

1. Sou. Kanta Ishwar Nande,
Aged 50 Years, Occupation
Housewife, R/o Aashi, Tahsil
Warora, District - Chandrapur
(Maharashtra State)
2. Gram Panchayat, Marda Through its
Secretary, Village Marda, Tq. Warora,
District Chandrapur.

...RESPONDENTS

Shri S.N. Singh, Advocate for petitioners.

CORAM:- M.W. CHANDWANI, J.
DATED : FEBRUARY 15, 2024.

ORAL JUDGMENT:

. Heard. Rule. Rule made returnable forthwith.

2. The petition challenges the order dated 21.10.2023 passed by the learned Additional Sessions Judge in Criminal Revision Application No.33/2022 dismissing the revision filed by the petitioners.

3. The petitioner nos.1 and 2 are sons; the petitioner no.3 and 4 are daughters; and the petitioner no.5 is wife of deceased Madhav Gaurkar. The respondent no.1 is claiming herself to be step-sister of petitioner nos.1 to 4, which is disputed by the petitioners. The respondent no.1 in capacity of daughter of deceased Mahdavi Gaurkar, was demanding share in an award of a

land acquisition proceeding and applied before the learned Judicial Magistrate First Class, Warora for entering her name in the birth register maintained by the respondent no.2 – Gram Panchayat, Marda without impleading the petitioners in the said proceedings. The learned Magistrate by the order dated 14.02.2018 directed the respondent no.2 to register the entry of her name including her maiden name i.e. Kanta Madhav Gaurkar in the birth register maintained by the respondent no.2. On the strength of birth certificate, the respondent no.1 is claiming herself to be a daughter of deceased Madav Gaurkar and withdrew the compensation amount from Special Tribunal, Nagpur. The said order is challenged in First Appeal No.218/2023 before this Court. This Court has allowed the first appeal and remanded the matter back to the Tribunal. When the petitioners came know about the registration of entry of birth of the respondent no.1 as a daughter of deceased Madhav Gaurkar, they filed a revision before the learned Additional Sessions Judge, Warora by filing an application for condonation of delay. The said application came to be allowed and the criminal revision application was registered. Thereafter, the matter was heard on merits. Though the Revisional Court held that said order, for entering her name in birth register has been

obtained by misrepresenting the learned Magistrate, Warora, however the said revision application was dismissed on the ground that the application is filed after period of limitation. Against this order, the present writ petition came to be filed.

4. Heard learned counsel for the petitioners. Though respondents were served and inspite of giving opportunity, the respondents have chosen not to appear.

5. Learned counsel for the petitioners took me to the order dated 13.10.2022 passed below Exhibit-1 in Miscellaneous Criminal Application No.9/2021. Perusal of order goes to show that the delay in filing the revision application was condoned by the learned Additional Sessions Judge and the revision was directed to be registered. After the revision was registered, the revision application was heard by the successor Judge of Sessions Court. In spite of the order of condonation of delay in filing the revision application, very surprisingly the learned Additional Sessions Judge while dismissing the revision erroneously held that the revision application is filed beyond period of limitation. Once the delay in filing revision application is condoned the question of limitation does not remain. The impugned order dated 21.10.2023

rejecting the revision application of the petitioners on the ground that it is filed beyond period of limitation does not sustain and is liable to be quashed and set aside. Hence, following order:

- i. The impugned order dated 21.10.2023 passed by the Additional Sessions Judge-1, Warora, District Chandrapur in Criminal Revision Application No.33/2022 is hereby quashed and set aside.
- ii. The matter is remanded back to the Additional Sessions Judge, Warora, District Chandrapur to decide the revision afresh and pass appropriate order.

In above terms, writ petition is allowed and disposed of. Rule is made absolute.

JUDGE

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