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

Writ Petition No. 8113 of 2019
[Suresh Ramchandra Meshram **..vs..** Bhaurao Devrao Ghule 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. S. M. Vaishnav, Advocate for the petitioner (through video conferencing)
Mr. A. M. Kadukar, AGP for respondent nos. 16 and 17

CORAM : ANIL L. PANSARE J.

DATED : 10-10-2024

Respondent no. 2 is reported dead. Learned counsel for the petitioner submits that he does not intend to bring on record legal representative/s of respondent no. 2. The petition, thus, stands abated against respondent no. 2.

2. Heard Mr. S. M. Vaishnav, learned Counsel for the Petitioner, Mr. and Mr. A. M. Kadukar, learned AGP for Respondent Nos. 16 and 17. None appears for the Respondent Nos. 1 and 3 to 15, though served.

3. The challenge is to the Judgment and order dated 28/5/2019 passed by the Maharashtra Revenue Tribunal, Nagpur in Proceeding No. REV/TNC/AKO-51/2018, thereby dismissing the revision application filed by the Petitioner against the order dated 26/9/2017 passed by the Sub Divisional Officer, Murtizapur, District Akola in Appeal Nos. TNC/107/ Ballarkheda/3/2012-13 and TNC/107/ Ballarkheda/4/ 2012-13.

4. Having heard both sides and having gone through the material placed before me, what transpires is that the Tahsildar, Murtizapur vide order dated 26/9/2011 has issued a purchase certificate under Section 48 of the Maharashtra Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958 (for short, 'the Act of 1958'). The Petitioner was directed to deposit the amount of Rs. 15,310/-, and upon depositing the amount, Sale Deed was to be executed. The Petitioner has, accordingly, deposited the amount and the Tahsildar, Murtizapur has executed Sale Deed of the disputed property on 17/11/2011.

5. The Respondent No.1, after eight months of passing order by the Tahsildar, filed appeal before the Sub Divisional Officer, Murtizapur under Section 107 of the Act of 1958.

6. The learned Counsel for Petitioner has invited my attention to Section 114, which provides that appeal shall be filed within a period of sixty days from the date of the order of the Tahsildar, Tribunal or Collector, as the case may be. It further provides that the provisions of Sections 4, 5, 12 and 15 of the Indian Limitation Act, 1908 shall apply to filing of such appeal or application for revision.

7. Thus, Section 114 permits filing belated application, but upon showing sufficient cause to approach belatedly.

8. In the present case, admittedly application seeking condonation of delay has been not filed by the

Respondent No.1, though certain averments have been made in the appeal memo itself. The fact, however, remains that the Sub Divisional Officer has not passed order condoning delay in filing appeal. Having not done so, the order is unsustainable.

9. The Maharashtra Revenue Tribunal has upheld the finding of the Sub Divisional Officer by assigning a strange reason. According to Maharashtra Revenue Tribunal, the Sub Divisional Officer has rightly ignored the issue of delay.

10. This finding is apparently contrary to the settled principles of law. Both the orders, therefore, are unsustainable.

11. Resultantly, the Writ Petition is partly allowed. The Judgment and order dated 28/5/2019 passed by the Maharashtra Revenue Tribunal, Nagpur in Proceeding No. REV/TNC/AKO-51/2018 and the order dated 26/9/2017 passed by the Sub Divisional Officer, Murtizapur, District Akola in Appeal No. TNC/ 107/ Ballarkheda/3/2012-13 are hereby quashed and set aside.

12. The Appeal No. TNC/107/Ballarkheda/3/2012-13 is remanded back to the Sub Divisional Officer, Murtizapur, District Akola to consider afresh in the light of Section 114 of the Act of 1958 and what has been stated in the body of the order.

13. Parties shall appear before the Sub Divisional Officer, Murtizapur on 24th October, 2024.

14. Writ Petition stands disposed of in above terms. No order as to costs.

(Anil L. Pansare, J.)

wasnik