



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 8031 OF 2017

**PANDURANG TUKARAM DANDGE AND OTHERS
VERSUS
THE ADDITIONAL COMMISSIONER AURANGABAD AND
OTHERS**

...
Mr. Avinash Khande h/f Mr. G. V. Sukale, Advocate for the
Petitioners.

Mr. K. B. Jadhavar, AGP for Respondents-State.

Mr. Dinesh D. Daud h/f Mr. Manoj D. Shinde, Advocate for
Respondent No.5.

...

**WITH
CIVIL APPLICATION NO. 8753 OF 2023
IN WP/8031/2017**

**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 01st JULY, 2025.**

P.C.:-

1. The petitioners impugn order dated 27.01.2017 passed by Additional Divisional Commissioner, Aurangabad in Appeal No.BIVW/Appeal/2040/2014, whereby application filed by petitioners to condone delay caused in filing Appeal is rejected.

2. Mr. Khande, learned Advocate appearing for petitioners submits that petitioners had challenged order passed by Deputy Collector (General Administration), Aurangabad in proceeding bearing No.भुसुधार/महार हाडोळा/चौकशी/कावी-११४१/सिआर-२०/२०११ dated 19.09.2013 before Maharashtra Revenue Tribunal, Aurangabad invoking provisions under Section 315 of the Maharashtra Land

Revenue Code, 1966. The Hon'ble Member, Maharashtra Revenue Tribunal allowed Appeal. The operative part of order reads thus:

“1. Appeal is partly allowed.

2. Second part of impugned order about handing over possession of the disputed land by appellant to respondent No.2 is quashed and set aside.

3. Rest of the order shall stand intact for want of jurisdiction to entertain appeal by this Tribunal.

*4. **Liberty is given to appellants to seek remedy before competent authority.***

5. R&P be sent back to the authority below forthwith.

6. Parties and Authority below be informed accordingly.

7. Close the case and consign to record.

8. Pronounced in open Court on 07/08/2014.”

3. Mr. Khande further submits that in pursuance to aforesaid liberty, petitioners filed Appeal under Section 3 of Bombay Inferior Village Watans Abolition Act, 1958 alongwith application to condone delay. The petitioners' application specifically refers to the order of MRT, whereby liberty was granted to petitioners while disposing of Appeal filed under Section 315 of the MLR Code. Mr. Khande invites attention of this Court to the reasons as stated in the application. According to him, benefit of Section 14 of the Limitation Act ought to have been given. However, learned Divisional Commissioner declined to condone technical delay of 1 year 12 days without looking to aforesaid aspects.

4. The learned Advocate appearing for respondents vehemently opposes prayer and submits that inordinate delay of 1 year 12 days is not explained.

5. Having considered submissions advanced, it is apparent that petitioners got cause of action to file Appeal before Divisional Commissioner only when learned MRT disposed Appeal vide judgment and order dated 07.08.2014 and granted liberty in favour of petitioners to seek remedy before Competent Court. In light of aforesaid fact, delay of 1 year 12 days caused in filing Appeal before Divisional Commissioner was technical and could have been condoned. However, without considering aforesaid aspects of the matter, learned Divisional Commissioner refused to entertain application and rejected the same. Therefore, Writ Petition deserves to be allowed and it is accordingly allowed in terms of prayer Clause (C).

6. The learned Advocate appearing for petitioners submits that during pendency of this petition, Mutation Entry No.1894 was noted, but it was not carried forward and, therefore, this Court had directed not to sanction the same.

7. In that view of the matter, interim protection granted by this Court under vide dated 17.07.2023 passed in Civil Application No.8753/2023 to remain in force for period of four weeks from

today. Meanwhile, petitioners shall be at liberty to file appropriate application for interim relief before learned Divisional Commissioner, which shall be considered and decided on its own merit in accordance with law.

8. In view of disposal of Writ Petition, pending Civil Application also stands disposed of.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/July-2025