



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

16 WRIT PETITION NO. 10723 OF 2016

Laxmibai Ramsing Chandshe And Others

...Petitioners

VERSUS

Dy. Director Of Land Records Aurangabad
And Others

...Respondents

.....

Mr. S.S. Jadhavar,, Advocate for the Petitioner

Mrs. P.V. Diggikar, AGP for State

Mr. A.A. Puranik h/f Mr. A.G. Godhamgaonkar, Advocate for
respondent No. 6

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CORAM : MANJUSHA DESHPANDE, J.

DATE : 24th FEBRUARY, 2025

ORDER :

1. A short issue is involved in the present writ petition. Petitioners are challenging the order dated 25.02.2016 passed by Principal Secretary, Department of Revenue and Forest, Mantralaya, Mumbai in क्र. अपील-२०१३/प्र.क्र. ४४/ज-७/प्र.क्र. ८५३ (०८)/२०१४/अवपु thereby rejecting the application for condonation of delay.

2. Learned advocate for petitioners has drawn my attention to the roznama, which is annexed to the writ petition, which indicates that on 02.02.2016, learned advocate Shri.

Andhale who was appearing for respondents No. 5 to 13 was present and he filed reply to the application for adding of party and case was adjourned to 09.03.2016 for hearing of application for condonation of delay. Thereafter, according to roznama dated 26.02.2016, appearance of advocate for applicants and advocate for respondents No. 5 to 13 is shown. It is mentioned that order has been passed on application for condonation of delay. It further observed that delay of 26 years cannot be condoned, hence application for condonation of delay has been rejected. In view of rejection of application for delay, revision has been dismissed.

3. In the column of signatures, in the roznama dated 26.02.2016 there are two signatures. Learned advocate for petitioner submits that he was not present on 26.02.2016. Other signatures was of advocate for respondents No. 5 to 13. He further drawn my attention to the order passed by Principal Secretary on 25.02.2016, whereby revision has been dismissed on the ground that delay of 26 years cannot be condoned.

4. It is the contention of petitioners that when matter was listed before Principal Secretary on 02.2.2016, he was not present and his absence was marked and matter was directed to

be listed on 09.03.2016. Therefore, according to him, scheduled date for hearing the application for condonation of delay is 09.03.2016. However, all of a sudden orders were passed without hearing the petitioners on 25.02.2016 and revision has been dismissed by referring to rejection of application for condonation of delay. Though he was not present on 25.02.2016, his presence had been shown in the roznama.

5. Learned AGP has been confronted with the dates which are mentioned in the writ petition as well as roznama.

6. It is not in dispute that the matter was adjourned on 02.02.2016 to be heard on 09.03.2016. Roznama does not indicate preponement of hearing of application of condonation of delay. In spite of that, application for condonation of delay has been decided on 26.02.2016 in absence of applicants and revision has been dismissed. This is clear and flagrant violation of principles of natural justice. Petitioners who are applicants and contesting party are required to be heard before passing of order. From the roznama it is apparent that petitioners were not heard before passing the impugned order and the application was decided before the scheduled date without intimating the petitioner.

7. In view of the same, it is necessary to quash and set aside the order passed by Principal Secretary on 25.02.2016 in order to enable the petitioner to agitate his grievance by affording opportunity of being heard in the proceedings terminated by the Principal Secretary, Department of Revenue and Forest, Mantralaya, Mumbai vide his order dated 25.02.2016. In the result, I proceed to pass following order:

ORDER

- (i) Writ petition is allowed.
- (ii) Order dated 25.02.2016 passed by Principal Secretary, Department of Revenue and Forest, Mantralaya, Mumbai in क्र. अपील-२०१३/प्र.क्र. ४४/ज-७/प्र.क्र. ८५३ (०८)/२०१४/अवप is hereby quashed and set aside and matter is remanded back to the Principal Secretary, Department of Revenue and Forest, Mantralaya, Mumbai, for giving fresh hearing to the respective parties and thereafter pass necessary orders.
- (iii) Parties shall cause appearance before Principal Secretary, Department of Revenue and Forest, Mantralaya, Mumbai, on 17.03.2025, and thereafter, the Principal Secretary, Department of Revenue and Forest, Mantralaya, Mumbai shall give date for further hearing and shall make an endeavor to decide the matter as far as possible within three months.

(MANJUSHA DESHPANDE, J.)