



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 WRIT PETITION NO. 13403 OF 2021

Ramesh Bhaurao Navpute And Another ...Petitioners

VERSUS

The State of Maharashtra Through
Principal Secretary And Others ...Respondents

...

Mr. Ujwal Subhash Patil Advocate for the Petitioners.

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

Mr. Sadashiv S. Shete, Advocate for Respondent No.5.

CORAM : KISHORE C. SANT, J.

DATE : 12th FEBRUARY 2025

PC :-

1. Heard the learned Advocates for the parties.
2. This writ petition is filed challenging the Judgment and Order dated 1st July 2021 passed by the learned Minister, Revenue, State of Maharashtra, thereby remanding the matter back to the Authority for decision on merits by condoning the delay.
3. The Respondent No.5 had approached the learned District Superintendent Land Records, Aurangabad (for short "DSLRL") for

correction of the consolidation scheme in respect of the land survey No.94/7 old Gut No. 202 and New Gut No.40 to the extent of 1H 30R land. It is the case of the respondent No.5 (now represented through LRs) that though he is in possession of the property, the land is shown in the name of the petitioner (now represented by through LRs). The learned DSLR by order dated 10th November 2018 rejected the application stating that the objection can be raised only within 30 days from the date of implementation of the scheme. The scheme is implemented in the year 1968 and the proceeding is filed for the first time in the year 2018. The learned DSLR rejected the application by relying upon the judgments of this Court in the cases of ***Gunda Tuka Shinde Vs. Pandharinath Shinde*** passed in Writ Petition No.3834 of 1982 and ***Krishna Mallu Sidgonda v. The Settlement Commissioner and Director of Land Records and Ors.*** passed in Writ Petition No.3043 of 1993. This order came to be challenged by respondent No.5 before the learned Minister by filing an appeal. The Hon'ble Minister held that, it would be in the interest of justice to condone the delay to avoid injustice to respondent No.5. He thus condoned the delay and remanded the

matter back for fresh decision to the learned Deputy Director, Land Records by way of impugned order. It is kept open to consider even the ratio in the cases of ***Gunda Tuka Shinde*** (supra) and ***Krishna Mallu Sidgonda*** (supra). The petitioners have therefore approached this Court.

4. The learned Advocate for the petitioners vehemently argued that the sole ground on which the application of respondent No.5 was rejected is that he had approached the Authority after 15 years of implementation of the consolidation scheme. The application was filed beyond limitation. Now, by way of impugned order, the delay itself is condoned. Though the judgment in the cases of ***Gunda Tuka Shinde*** (supra) and ***Krishna Mallu Sidgonda*** (supra) were pointed out to the learned Hon'ble Minister, he has not considered the ratio of the judgment in proper prospective. Considering these judgments, there could not have been order of remand by condoning the delay. Thus now practically, the authority is directed to decide the case on merits. He thus prays for allowing the writ petition.

5. Mr.Shete, the learned Advocate for the Respondent No.5 vehemently argued that the Hon'ble Minister has not decided rights of the parties as such. The order is only of remand. All the questions including the question of limitation are kept open. No prejudice is, thus, caused to the petitioner. The petitioner would have an opportunity to put up his case before the authority. He further submits that the cause of action arose in the year 2008-09 when the petitioner purchased the land from the earlier owner. The possession of the land is still with the respondent No.5. Merely because, the application was beyond limitation. Now, the case of the respondent is not considered by the learned DSLR. He thus submits that, the authority can consider even the facts of the case while considering the matter on merits. If the order is set aside, both the parties would be given a chance to put up their case before the authority. He thus supports the impugned order.

6. The learned AGP also supports the order. Affidavit-in-reply is also filed on behalf of State. The learned AGP justifies the order. The learned AGP also submits that no prejudice will be caused to any of the parties

by the impugned order and prays for dismissal of the writ petition.

7. This Court has considered the submissions. It is by now well settled law that no party can approach the Authority after period of limitation. In the present case, the respondent has approached the authority after 51 years of implementation of the consolidation scheme. When the learned DSLR had rejected the application mainly on the ground of limitation, the said order was challenged before the Hon'ble Minister. Though the judgments were relied upon in the cases referred above, still he failed to appreciate the same in proper prospective. This Court finds substance in the submissions of learned Advocate for the petitioners that once the delay is condoned, it would be practically directing the authority to entertain the proceeding even after a period of limitation. Merely keeping it open for the authority to decide the question of limitation is of no avail, as in the impugned judgment and order the Minister shows that he has condoned the delay.

8. Considering all above, this Court finds that case is made out to allow the writ petition. Writ Petition therefore stands allowed in terms of

prayer clause (B). No order as to costs.

9. Writ Petition stands disposed off.

10. Pending Civil Applications, if any, also stand disposed off.

[KISHORE C. SANT, J.]