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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.668 OF 2023

Farsheed Burjor Patell

... Petitioner

V/s.

The State of Maharashtra & Ors.

... Respondents

Mr. Dormaan J. Dalal for the petitioner.

Ms. Sulbha D. Chipade, AGP for respondent Nos.1 to 7.

Mr. Vijay Killedar for respondent No.8.

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CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 12, 2025

PC.:

1. The challenge in this writ petition is to the orders passed by the Sub-Divisional Officer dated 10th December 2018 and 5th January 2019.

2. The petitioner, inter alia, contended that the power of condonation of delay under Section 257 of the Maharashtra Land Revenue Code, 1966, has been exercised in reliance on the Circular dated 30th July 2010. It is further submitted that the mere reliance on the Circular, without a thorough and individualized examination of the facts pertinent to each case, is contrary to the statutory mandate and principles of fairness. The petitioner also relied upon the Division Bench judgment of this

Court in Writ Petition No. 13353 of 2016, wherein the challenge was raised on the ground that the said circular empowers the authority to condone delay without considering the unique facts of each case. The Division Bench, in its considered judgment, made it unequivocally clear that the delay in cases covered by the circular must be evaluated based on the specific factual circumstances of each instance. Accordingly, it was incumbent upon the Sub-Divisional Officer to examine the merits of the case before exercising the condonation power under Section 257 of the Code. This Court reaffirms that any departure from such individualized scrutiny constitutes a manifest error of law and undermines the very essence of procedural fairness.

3. In view of the foregoing, the impugned orders passed by the Sub-Divisional Officer dated 10th December 2018 and 5th January 2019 are hereby quashed and set aside. The failure to accord individualized scrutiny in the exercise of condonation, resulting in a violation of procedural fairness, renders the orders untenable and devoid of any legal merit.

4. The proceedings are remanded back to the Sub-Divisional Officer, who is directed to decide the objections regarding delay in strict conformity with statutory requirements and the principles of natural justice. The Sub-Divisional Officer shall afford a fair opportunity of hearing to all concerned parties and, in particular, shall enable the respondents to submit a comprehensive and sufficient explanation for the delay in exercising the power under Section 257 of the Act. In so doing, the Sub-Divisional Officer is further directed to render a reasoned decision, clearly delineating

the factual findings and legal principles relied upon in arriving at the conclusion.

5. The writ petition stands disposed of in the above terms, and no costs are awarded.

6. All points and issues raised by the petitioner and respondents are hereby kept open to be agitated before the Sub-Divisional Officer in subsequent proceedings. The parties are at liberty to raise any further legal or factual issues, and the competent authority is directed to address such matters in accordance with due process and the principles of natural justice.

(AMIT BORKAR, J.)