

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 617 OF 2024

Praful Damodar Srujan and Anr.

...Petitioners

V/s.

Laltikumar Dattatraya Donde and
Anr.

...Respondents

Mr. Drupad S. Patil *for the Petitioners.*

Mr. Rohit D. Joshi *for Respondent No.1.*

Mrs. Vaishali S. Nimbalkar, AGP *for Respondent -State.*

CORAM: SANDEEP V. MARNE, J.

Dated: 26 March 2025.

P.C.:

1) Petition challenges order dated 16 October 2023 passed by the Hon'ble Minister (Revenue) partly allowing the revision application preferred by Respondent No.1 and consequently setting aside Sub Divisional Officer's (SDO) order dated 23 February 2009 as well as order of the Additional Collector dated 9 May 2014.

2) I have heard Mr. Patil, the learned counsel appearing for the Petitioners, Mr. Joshi, the learned counsel appearing for

MEGHA
SHREEDHAR
PARAB

Digitally signed
by MEGHA
SHREEDHAR
PARAB
Date: 2025.03.28
19:08:27 +0530

Respondent No.1 and Ms. Nimbalkar, the learned AGP appearing for the Respondent -State.

3) It appears that the Circle Officer had refused to certify Mutation Entry No.2028 by order dated 4 March 1989. Petitioner belatedly filed appeal before the SDO in the year 2008, which came to be allowed by the SDO on 23 February 2009. Respondent No.1 did not file appeal against SDO's order dated 23 February 2009 within reasonable time and filed the same belatedly in the year 2014. Respondent No.1 also filed application for condonation of delay in filing the appeal before the Additional Collector. By order dated 9 May 2014 the Additional Collector apparently condoned the delay without recording detailed reasons in writing. However, the Additional Commissioner, Konkan Division, by its order dated 8 July 2016, set aside the order passed by the Additional Collector dated 9 May 2014. Respondent No.1 therefore filed revision application before the Hon'ble Minister. The scope of revision application before the Hon'ble Minister was only with regard to correctness of order passed by the Additional Collector on 9 May 2014 condoning the delay in filing of the appeal. Instead of restricting the remit of appeal to the correctness of order dated 9 May 2014 the Hon'ble Minister has erroneously expanded the scope of appeal by going into correctness of the SDO's order dated 26 February 2009. The Hon'ble Minister has thus committed jurisdictional error in passing order dated 16 October 2023. If the Hon'ble Minister was satisfied that the Additional Collector had erred in not

recording reasons for condoning delay of over five years in filing of appeal, he ought to have remanded the appeal for hearing of the application afresh before the Additional Collector. The order passed by the Hon'ble Minister is thus indefensible and liable to be set aside.

4) I therefore proceed to pass the following order:

- (i) Orders dated 16 October 2023 passed by the Hon'ble Minister, order dated 8 July 2016 passed by the Additional Commissioner, Konkan Division as well as order dated 9 May 2014 Additional Collector are set aside.
- (ii) Application seeking condonation of delay shall stand restored on the file of Additional Collector, who shall proceed to decide the same on its own merits without being influenced by the orders passed by the Additional Commissioner or the Hon'ble Minister.
- (iii) Both parties shall be at liberty to rely on additional documents in support of their respective contentions.
- (iv) Application for condonation of delay shall be decided by the Additional Collector in an expeditious manner.

5) With the above directions the Writ Petition is partly allowed and disposed of.

[SANDEEP V. MARNE, J.]