VRJ

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1502 OF 2025

Yashwant Maniksa Kshatriya & Ors. … Petitioners
V/s.
Bhagwan Vaman Karpe & Ors. … Respondents

Mr. Sandeep D. Shinde for the petitioners.
Mr. Yatin R. Shah and Harsh Shah for respondent No.1.
Mr. R. S. Pawar, AGP for the State-respondent Nos.2 to 5.

CORAM : AMIT BORKAR, J.

DATED : APRIL 9, 2025

P.C.:

1. By this Writ Petition filed under Article 226 of the Constitution of India, the petitioners have assailed the judgment and order dated 10th January 2023 passed by respondent No.4, thereby dismissing the revision application preferred by the petitioners under Section 257 of the Maharashtra Land Revenue Code, 1966.

2. The case of the petitioners, as set out in the petition, is that pursuant to a decree passed by the Civil Court, their names were duly recorded in the revenue records in the year 1969. However, the contesting respondents preferred an appeal under Section 247 of the Maharashtra Land Revenue Code, 1966 on 21st July 1993, assailing the said entries. The said appeal was filed without any application for condonation of delay. The Appellate Authority, by its order dated 29th December 2000, allowed the said appeal without adverting to the issue of delay, and in doing so, entered into the validity of the decree passed by the Civil Court, which it was not competent to do in proceedings under Section 247 of the Code.

3. Aggrieved thereby, the petitioners challenged the order of the Sub-Divisional Officer before the competent authorities under the Code and ultimately filed Revision Application No.16 of 2002. Respondent No.4, by the impugned order, recorded a finding that the decree passed by the Civil Court did not clearly specify the extent of area allotted to each party in partition and there was a discrepancy in the area shown in the name of the contesting respondents. Consequently, the revision application came to be dismissed, giving rise to the present writ petition.

4. Learned Advocate for the contesting respondents has submitted that the contesting respondents were not issued any notice of the original proceedings, and were not parties to the Civil Suit decided in 1969. It is submitted that for this reason, upon becoming aware of the entries, they preferred the appeal in the year 1993.

5. Upon perusal of the record, it is evident and not in dispute that the Appellate Authority exercised jurisdiction under Section 247 of the Maharashtra Land Revenue Code, 1966. It is equally not in dispute that the entries recording the names of the petitioners were effected as far back as in the year 1969. It is a settled principle of law that if a party aggrieved seeks to challenge a mutation entry under Section 247 of the Code after a lapse of substantial time, such party is mandatorily required to file an application for condonation of delay, setting out sufficient cause for the delay. It is further incumbent upon the authority to issue notice and to consider whether the cause shown for the delay is sufficient before proceeding to entertain the appeal on merits.

6. In the present case, the Appellate Authority entertained and allowed an appeal filed in the year 1993 seeking to challenge an entry made in 1969, without there being any application for condonation of delay and without condoning the delay. In absence of an application for condonation of delay and an order condoning the same, the Appellate Authority could not have assumed jurisdiction to decide the appeal on merits. The exercise of jurisdiction by the Appellate Authority is thus patently without jurisdiction and illegal, vitiating the entire proceedings.

7. The plea raised by the contesting respondents of lack of knowledge of the mutation entries cannot be accepted. The record clearly discloses that the names of the petitioners had been recorded in the possession column of the revenue record. Such entries, reflecting possession, are sufficient notice to the world at large, and constructive notice to any intending purchaser or claimant under Section 3 of the Transfer of Property Act, 1882. The principle of constructive notice would operate against the contesting respondents, and the plea of lack of knowledge is thus unavailable to them in law. It is well settled that entries in the revenue record, though not conferring title, are presumptive of possession and are deemed sufficient to put any person concerned on notice.

8. In view of the foregoing discussion, I am of the considered opinion that the impugned orders passed by the authorities under the Maharashtra Land Revenue Code, 1966 cannot be sustained in the eyes of law and deserve to be set aside.

9. Accordingly, Rule is made absolute in terms of prayer clause (a) of the petition.

10. Pending interlocutory application(s), if any, stand disposed of.

(AMIT BORKAR, J.)