

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

WRIT PETITION NO.10252 OF 2024

Hira Baliram Patil and ors.

... Petitioners

V/s.

Pundlik Arjun Patil and ors.

... Respondents

Mr. Harshad Bhadbhade with Mr. Saurabh Butala and Ms. Nikita Mandaniyan, Advocates for the Petitioners.

Mr. Sanjeev P. Kadam, Senior Advocate with Mr. Prashant Raul, Ms. Varsha Thorat, Ms. Aditi Rajput, Ms. Vaishnvi Patange and Mr. Suraj Mhadgut i/by Mr. Ravi Asabe, Advocates for the Respondents No.1 to 5, 7 and 8.

Ms. Sulbha D. Chipade, AGP for the State.

CORAM : SANDEEP V. MARNE, J.

Dated : 31 January, 2025.

P.C. :

1. The Petition challenges order dated 28th June, 2024 passed by Minister (Revenue) dismissing the Revision Application preferred by the Petitioners and confirming the order dated 2nd February, 2024 passed by the Sub-Divisional Officer, Panvel condoning the delay of 58 years in setting up a challenge to Mutation Entry No.425.

2. I have heard Mr. Bhadbhade, learned counsel appearing for the Petitioners, Mr. Kadam, learned senior counsel appearing for Respondents No.1 to 5, 7 and 8 and Ms. Chipade, learned AGP appearing for the State.

3. After having heard the submissions canvassed by the learned counsel appearing for parties, it appears that Mutation Entry No.425 was certified on 4th May, 1965. The mutation entry shown to have been certified for replacing name of Late Kanya Badhu Patil by the names of his grand-children Heera, Chinda and Abhimanyu. It is the complaint of the contesting Respondents that late Kanya had three daughters and the names of daughters and their grand-children also ought to have been mutated to the revenue records upon death of Late Kanya. With this compliant, appeal was preferred with the Sub-Divisional Officer after delay of 58 long years. The delay was sought to be condoned by filing an application by citing various reasons for condonation of delay of 58 long years. Instead of examining the correctness of justification pleaded for a condonation of delay of 58 years, the Sub-Divisional Officer proceeded to condone the delay by recording a solitary finding that the Mutation Entry No.425 is suspicious on account of non-recording of finding as to whether the children and wife of late Kanya were alive on the date of certification of the mutation entry. This in my view may be relevant for the purpose of deciding the merits of the case.

4. However, the delay could not have been condoned by recording a vague finding that the manner of certification of the mutation entry is suspicious. The Sub-Divisional Officer ought to have considered the justification pleaded in the application and then recorded his finding regarding condonation of delay. The findings recorded by Sub-Divisional Officer while condoning the delay of 58 long years are thus perverse and ought to have been set aside by the learned Minister in exercise of the revisional jurisdiction under Section 257 of the Code. Instead of doing so,

the learned Minister has merely referred to the few decisions of the Court and has proceeded to dismiss the Revision Application.

5. In my view therefore, the order passed by the Sub-divisional Officer deserves to be set aside and the proceedings deserve to be remanded before the Sub-divisional Officer for being deciding afresh.

6. Accordingly, I proceed to pass the following order :

i. Order dated 2nd February, 2024 passed by the Sub-Divisional Officer, Panvel as well as order dated 28th June, 2024 passed by the learned Minister (Revenue) are set aside.

ii. The application for condonation of delay filed in RTS Appeal No. 38 of 2024 is restored on the file of Sub-divisional Officer, Panvel. He shall proceed to decide the same afresh by taking into consideration the avernments made in the application for condonation of delay and without being influenced by any of the observations made by him in the order dated 2nd February, 2024 as well as the observations made by the learned Minister (Revenue) in the order dated 28th June, 2024. All rights and contentions of the parties relating to the merits of the case as well as the aspect of limitation are expressly kept open.

7. With the above directions, the Writ Petition is partly allowed and disposed of.

(SANDEEP V. MARNE, J.)