

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

WRIT PETITION NO.16278 OF 2024

Tanaji Gotiram Patil & Ors.

....Petitioners

V/S

Bala Ganpat Patil & ors.

....Respondents

Mr. Harshad E. Palwe with Ms. Farzana Khan *for the Petitioners.*

Mr. Vijay Killedar *for Respondent No.1.*

Mr. Y.D. Patil, AGP *for Respondent Nos.2 to 5 / State.*

CORAM: SANDEEP V. MARNE, J.

DATE : 19 MARCH 2025.

P.C.:

1. The Petition challenges order dated 30 September 2024 passed by the Hon'ble Minister (Revenue) dismissing the Revision Application preferred by the Petitioners and confirming the order dated 15 January 2024 passed by the Additional Divisional Commissioner, Konkan Division. The Additional Divisional Commissioner had allowed the Revision filed by Respondent No.1 and had set aside the order dated 30 January 2023 passed by the Additional Collector, Thane. The Additional Collector had allowed the Appeal filed by the Petitioners and while setting aside order passed by the Sub Divisional Officer on 12 February 2009 had condoned the delay in filing the Appeal with directions to the Sub Divisional Officer to decide the Appeal

on merits. In short, Petitioners' application for condonation of delay in filing appeal challenging mutation entry No.946 dated 15 March 1974 has ultimately been rejected resulting in dismissal of his Appeal challenging the said mutation entry.

2. I have heard Mr. Palwe, the learned counsel appearing for Petitioners, Mr. Killedar, the learned counsel appearing for Respondent No.1 and Mr. Patil, the learned AGP appearing for Respondent Nos.2 to 5/State. I have also gone through the orders passed by the Sub Divisional Officer, Additional Collector, Divisional Commissioner and the Hon'ble Minister.

3. Petitioners filed Appeal before the Sub Divisional Officer challenging mutation entry No.946 certified on 15 March 1974. Thus there was delay of 34 long years in filing the Appeal by the Petitioners. However Petitioners did not plead any justification in their application for condonation of delay. It would be appropriate to reproduce the entire application preferred by the Petitioners before the Sub Divisional Officer for condonation of delay which reads thus:

“1. The Appellant states that the Appellant is the owner of the property bearing Survey No.173, Hissa No.2, admeasuring about 00-H, 52-R, 00-P situated in the area under the vicinity of the Revenue Village Narhen, Tal: Ambarnath, Dist: Thane

2. The appellant is the sole owner of the aforesaid property and in this concern till date the possession of the said property lies with appellant. The within mention property was mutated in the name of the father of the appellant Late Laxman Dhondur

Patil and thereafter the said land was mutated in the name of the legal heirs of Laxman Dhondu Patil that is in the name of the present appellant. in the year 1972. The appellant states that the appellant till date pays the Land Revenue Tax for the aforesaid property.

3. The appellant states that the appellant was surprised to know that sum Bala Ganpat Patil had without the knowledge of this appellant had mutated the said property in his name under mutation entry No. 946 dated 15/03/1974.

4. The appellant states that in this concern on perusal of this said mutation entry the then Talathi, Kumbharli has mention that the present appellant has by oral undertaking specified that the said land be mutated in the name of Bala Ganpat Patil residing at Mangrool, Tal-Ambernath, It is pertinent to note that no such oral or written undertaking was given by this appellant. The said land was purchased by the father of the appellant and hance the question of having possession with the respondent does not arise and is also ir-reliable, and the respondent is put to strict proof thereof. In this concern the said oral undertaking and any such documentary evidence is put to strict proof.

5 The Appellant state that taking benefit of the said undue transaction the respondent may try to sell the said property and is trying to create the third party interest in the said property, which needs to be curtained at this juncture at large.”

4. Thus the Petitioners did not plead any justification for condonation of inordinate delay of 34 long years. Though it is sought to be suggested by Mr. Palwe that the Petitioners has filed Appeal immediately upon acquisition of knowledge of certification of mutation entry No.946, there is no specific pleading in the application about the exact date on which the Petitioners allegedly acquired knowledge about Mutation Entry No.946. When Petitioners were seeking condonation of

inordinate delay of 34 years, it was incumbent upon them to plead proper justification in their application. In absence of any pleading in the application, oral submissions cannot be canvassed about the date of acquisition of knowledge of certification of the impugned Mutation Entry. In my view therefore, the Sub Divisional Officer had rightly rejected the application for condonation of delay. The Additional Collector had grossly erred in reversing the order of the Sub Divisional Officer. The Divisional Commissioner has rightly reversed the order passed by the Additional Collector. There is no error in the order passed by the Hon'ble Minister rejecting Petitioners' revision application. I therefore do not find any valid reason to interfere in the orders passed by the Hon'ble Minister, Additional Divisional Commissioner and Sub Divisional Officer. Petition, being devoid of merits, is accordingly **rejected**.

(SANDEEP V. MARNE, J.)

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by SUDARSHAN
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