

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.17358 OF 2024

Puj Dharamwadi Panchayat

A registered Public Trust

... Petitioner

V/s.

The State of Maharashtra and ors.

... Respondents

Mr. Raj Chandnani with T. J. Sodhi, Advocates for the Petitioner.

Mr. Girish R. Agrawal, Advocate for the Respondent No.10.

Mr. Kedar Dighe, Addl. G.P With Ms. Savita Prabhune, AGP for the State.

CORAM : SANDEEP V. MARNE, J.

Dated : 04 February, 2025.

P.C. :

1. Heard Mr. Raj Chandnani, learned counsel appearing for the Petitioner and Mr. Agrawal, learned counsel appearing for the contesting Respondent.

2. The challenge in the present petition is to the order dated 23rd August, 2024 passed by the Hon'ble Minister-Revenue dismissing the Revision Application preferred by the Petitioner and confirming the order dated 20th December, 2019 passed by the District Superintendent of Land Records. By order dated 20th December, 2019 the District Superintendent allowed Review Petition filed by the contesting Respondent and recalled the order dated 29th May, 2019 and condoned the delay in filing the appeal.

3. The short issue that arises for consideration is whether the District Superintendent of Land Record is justified in condoning the delay in filing the appeal against Mutation Entry No.326 certified on 3rd November, 1980. According to the Petitioner, there is delay of 38 long years in filing the appeal by the contesting Respondent and that therefore, such an inordinate delay could not have been condoned by the District Superintendent. It is further submitted that the District Superintendent had initially rejected the appeal of the contesting Respondent by refusing to condone the delay and that he erroneously exercised power of review under provisions of Section 258 of the Maharashtra Land Revenue Code, 1966 (**Code**) for reversing his own decision. It is further submitted that the District Superintendent has in fact touched upon merits of the case while deciding the issue of condonation of delay which is impermissible in the light of judgment of the Apex Court in the case of ***Ram Kali Devi Vs. Manager, Punjab National Bank***¹. It is further submitted that the District Superintendent is likely to decide the issue of title while entertaining the belated appeal of the contesting Respondent contrary to the civil suit filed by the Petitioner challenging the Agreement of Sale dated 14th May, 2018 executed in favour of Mr. Deepak Sirwani who is a Power of Attorney holder of the contesting Respondent. Reliance is placed on judgment of this Court in ***Chandrabhaga Ladka Chaudhary Vs. Gajanan Gondhale and ors., Writ Petition No. 1097 of 2023 decided on 27th February, 2024.***

4. I have considered the submissions canvassed on behalf of the Petitioner. Perusal of the order passed by the Deputy Superintendent of Land Records would indicate that he has encountered letter dated 13th

1 1998(8) SC 529

May, 2019 certifying that the Sanad shown to have been issued in the name of the Petitioner in respect of the land in question is fraudulent, District Superintendent has therefore held that further verification in that regard is necessary and for that purpose, he has proceeded to condone the delay in filing the appeal.

5. Even otherwise, it appears that there was a registered Certificate of Sale dated 22nd May, 1961 and therefore the revenue authorities were under obligation to enter the name of purchaser immediately after receipt of intimation about the transaction from the office of Sub-Registrar. In this connection reliance of Mr. Agrawal on judgment in ***Shankarrao Premji Banarase and ors. Vs. Madarsa Jamia Arabia Islamiya and ors.***² appears to be apposite. In that case, this Court has held that provisions of the Code imposes no obligation upon person acquiring right under registered document to report such acquisition under Section 149 to the Talathi or Tahasildar. This Court has held that since there is no obligation on person acquiring a right under registered agreement, mere delay in filing appeal against the mutation entry and for recording name of the purchaser in revenue record cannot be a reason for not entertaining the appeal. The facts and circumstances in the present case appear to be squarely covered by the judgment in ***Shankarrao Premji Banarase*** (supra). In the present case as well, there is a registered Certificate of Sale dated 22nd May, 1961 which is registered on 6th September, 1962. Though the Petitioner questions the existence or registration of such Certificate of Sale, as of now the contesting Respondent rely upon such Certificate of Sale issued on 22nd May, 1961 together with Index II extract showing registration thereof. If

² 2024(2) ALL MR 230

indeed no Certificate of Sale was issued or registered, this aspect can always be taken into consideration by the Deputy Superintendent while deciding the appeal on merits. As of now, the Deputy Superintendent has merely condoned the delay for the purpose of entertaining the appeal filed by contesting Respondent on merits. Considering the facts and circumstances of the present case, I am not inclined to interfere in the discretion exercised by the District Superintendent in condoning the delay. If at all Petitioner is in a position to establish his title in respect of the land in question and if it succeeds in a civil suit by securing a declaration about ownership or possessory right in respect of the land in question, the decree passed by the Civil Court would obviously prevail over any mutation made by the revenue authority. I am therefore not inclined to interfere in the orders passed by the District Superintendent of Land Records as well as by the Hon'ble Minister (Revenue).

6. The Writ Petition is accordingly rejected.

7. The District Superintendent of Land Records shall however decide the appeal on its own merits without being influenced by any of the observations made by this Court in the present order.

(SANDEEP V. MARNE, J.)