

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 18486 OF 2024

Kashiram Vasant Pawar

.. Petitioner

Versus

The Sub-Divisional Officer (Revenue),
Kudal & Ors.

.. Respondents

.....

- Mr. Vikram N. Walawalkar, Advocate for Petitioner
- Ms. Snehal Jadhav, AGP for Respondent No. 1- State

.....

CORAM : MILIND N. JADHAV, J.

DATE : JUNE 23, 2025

P. C.:

1. Heard Mr. Walawalkar, learned Advocate for Petitioner and Ms. Jadhav, learned AGP for Respondent No. 1 - State.

2. Order impugned in the present Writ Petition is dated 14.08.2024 passed by Sub-Divisional Officer [SDO] (Revenue), Kudal in RTS proceedings. Private Respondents challenged mutation entry No. 1712 dated 29.06.2001 for the first time before the SDO by filing Statutory Appeal under Section 247 of the Maharashtra Land Revenue Code, 1966 (for short "**the Code**"). SDO heard the Appellants and Petitioner on 12.01.2024 for the first time when they were present. Thereafter the matter travelled throughout 2024 but due to impending Loksabha elections, it came to be adjourned intermittently until on 06.08.2024 (which date *prima facie* on the face of record appears to be tampered from 09.07.2024 which will have to be explained by learned AGP after

taking appropriate instructions from the concerned Authority). On 06.08.2024, SDO has noted that he has received a letter from the Sarpanch of Grampanchayat of Kadaval Village dated 23.07.2024 and in view of the exigency and request made in the said letter, SDO called for an urgent hearing of the said proceedings on 06.08.2024 when only the private Respondents who were the Appellants therein were present. Mr. Walawalkar would submit that the letter of the Sarpanch was endorsed by the Minister and hence the SDO *suo moto* fixed the hearing on 06.08.2024 and heard the Private Respondents and passed the impugned order on 14.08.2024 behind the back of the Petitioner. SDO heard the Appellants in the absence of Petitioner on 06.08.2024 and reserved the proceeding for passing of judgment & order. The judgment & order was passed on 14.08.2024, copy of which is appended at page Nos. 40-44, Exh. "G" of Petition. *Prima facie* on reading of the said order, Mr. Walawalkar would make one submission. He would submit that the proceeding filed before the SDO was filed after a humongous delay of more than 23 years to challenge mutation entry namely M.E. No. 1712 dated 29.06.2001 and by virtue of the impugned order dated 14.08.2024, the said RTS Appeal has been allowed and mutation entry No. 1712 has been quashed and set aside and further directions have been given that the said entry be corrected in terms of two other mutation entry Nos. 1829 and 1880.

3. Mr. Walawalkar would submit that such course of action is impermissible in law. He would submit that in view of various decisions of this Court, the SDO cannot assume jurisdiction to decide the RTS Appeal unless the delay in filing the Appeal is condoned. In that regard, he would draw my attention to the penultimate paragraph at page No. 43 of SDO's impugned order wherein in a single line, SDO has stated that he has condoned the delay in the interest of justice. He would submit that such a course of action is impermissible as Petitioner has not been heard at all neither in the Delay Condonation Application nor in the RTS Appeal.

4. In support of his arguments, he has referred to and relied upon the decision of this Court in the case of *Balkrishna S. Thakur & Ors. v. Prabhakar S. Thakur & Ors.*¹. He would also fairly submit that though the judgment dated 14.08.2024 is an appealable order before the Appellate Authority under Schedule E of the Code, the reason for approaching this Court is in view of the gross facts which are seen from reading of the roznama appended at page No. 35 of Petition and the submissions made herein above. He would submit that despite the Appellants being originally present on 12.01.2024 and whose presence was recorded by the SDO, the said RTS Appeal has been determined in the absence of Petitioner and therefore Petitioner has invoked the

¹ Writ Petition No. 2658 of 2018 decided on 10.02.2021

supervisory jurisdiction of this Court in such gross facts under Articles 226 and 227 of the Constitution of India.

5. In view of the above, issue notice to the Respondents made returnable on 07.07.2025. Humdast permitted. In addition to Court's notice, Petitioner is directed to serve copy of the Petition along with copy of this order on the Respondents and inform them about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof on or before the next date.

6. Learned AGP waives service of notice for Respondent No. 1-State. She is directed to take appropriate instructions from the concerned officer who has passed the impugned order on the aforesaid submissions which are referred to in this order and accordingly apprise the Court on the next adjourned date.

7. Stand over to **7th July, 2025** under the caption "**for Circulation**".

[MILIND N. JADHAV, J.]

Amberkar

Digitally signed
by RAVINDRA
MOHAN
AMBERKAR
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2025.06.24
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