



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Writ Petition No.1365/2024

Vijaykumar Dagdulal Somani,
Aged about 77 years, Occ.-Agriculturist,
R/o.-Professor Colony, Risod Road, Washim,
Tq. and Dist- Washim.

.... Petitioner.

Versus

1. State of Maharashtra,
through its Secretary, Department of Revenue,
Animal Husbandry and Dairy Development,
Mantralaya, Mumbai.
2. Additional Commissioner, Amravati Division, Amravati.
3. Additional Collector, Washim, District Washim.
4. Sub-Divisional Officer, Washim, District Washim.
5. Talathi, Mouza Godeshwar, Tahsil and District Washim.
6. Abdul Gaffar Abdul Sattarsha,
aged about 65 years, Occ.-Labour,
R/o.-Burak Pura, Near Chandreshwar Mandir,
Washim Tq. and District Washim.
7. Abdul Wahab Abdul Sattar,
Aged about 60 years, Occ.-Labour,
R/o.-Burak Pura, Near Chandreshwar Mandir,
Washim, Tq. and District Washim.

.... Respondents.

Mr M.G. Bhangde, Senior Advocate a/b Mr. S.S. Sarda, Advocate for petitioner.
Mr. R.K. Thakkar, Advocate for resp. no.6.
Mr. N.S. Autkar, AGP for resp. nos.1 to 5.

CORAM : PRAFULLA S. KHUBALKAR, J.

Closed on : 24-11-2025.

Pronounced on : 18-12-2025.

J u d g m e n t

Rule. Rule made returnable forthwith. Heard finally by
consent of the parties.

2. The petitioner takes exception to order dated 15-02-2024 passed by the Hon'ble Minister of Revenue and seeks restoration of order dated 27-09-2022 passed by respondent no.2-Additional Commissioner, Amravati Division, Amravati.

3. The controversy in the instant petition is with respect to the mutation entry nos. 325, 326, 232 and 264 with respect to land bearing field Survey No.61/2 situated at revenue village Gondeshwar, Tahsil and District Washim. This land originally belongs to Mr. Chandsha Bannusha who sold it to Smt. Shajadbi Shekh Makbool in the year 1967 which was subsequently sold by Sale Deed of the year 1974 and ultimately the petitioner purchased the same. Accordingly, mutation entry no.264 dated 27-09-1990 was taken. By registered Sale Deed dated 16-12-2020 the petitioner transferred 1406.42 Sq.Mtrs of land in favour of the Municipal Council, Washim for widening of road.

4. In this background, respondent no.6 raised challenge to the mutation entries by filing appeal under Section 247 of the Maharashtra Land Revenue Code before the Sub-Divisional Officer, Washim, which was accompanied by an application for condonation of delay which was allowed by order dated 02-03-2021. The Sub-Divisional Officer, Washim, allowed the appeal by order dated 23-07-2021 and directed cancellation of the mutation entries which were standing in the name of the petitioner. Feeling aggrieved, the petitioner filed appeal before the Additional Collector, Washim. However, the appeal came to be dismissed by order dated 08-03-2022. Feeling aggrieved by this order, the petitioner filed revision under Section 257 of the Maharashtra Land Revenue Code before

the Additional Commissioner, Amravati, who allowed the revision application and quashed the orders passed by the Sub-Divisional Officer, Washim and the Additional Collector. As a consequence of this order, the mutation entries were restored to the original position. Thereafter, respondent no.6 challenged the order before the Hon'ble Minister of Revenue by filing revision. By order dated 15-02-2024, the revision application came to be partly allowed and the order passed by the Additional Commissioner came to be quashed and set aside and the matter was directed to be remanded to the Additional Collector for fresh enquiry. Pertinent to note that the Hon'ble Minister also ordered that the question of condonation of delay will not be permitted to be raised in the fresh enquiry to be conducted by the Collector. Feeling aggrieved by this order, the petitioner has filed the instant petition.

5. Mr. Bhangde, learned Senior Advocate for the petitioner submitted that the basic objection to the mutation entries raised by respondent no.6 after a period of 44 years deserves to be out-rightly rejected on account of inordinate delay and laches. He submitted that the authorities below particularly Sub-Divisional Officer, Washim, mechanically condoned the delay of 44 years by a one line order and resultantly the entire controversy got opened up. He submitted that there was glaring irregularity to conduct the proceedings before the Sub-Divisional Officer, Washim and invited Court's attention to the order-sheet dated 14-07-2021 which records absence of parties and grants next date as 25-08-2021. He points out that before the assigned next date, the final order is passed on 23-07-2021, thereby cancelling all the mutation entries

with respect to the suit property. Apart from this he submitted that a well reasoned order passed by the Additional Commissioner is interfered by the Hon'ble Minister by relying upon search report of an Advocate rendering the order unsustainable in law. He also submitted that by the impugned order although the matter is remanded to the Additional Collector, the pertinent direction mentioned at Clause 4 of the impugned order to restrain the parties from raising the issue of limitation demonstrates perversity in the impugned order.

6. In support of his submissions Mr. Bhangde, learned Senior Advocate placed reliance on the judgment of Hon'ble Supreme Court in the matter of *State of Punjab and others vs Gurdev Singh*, reported in *(1991) 4 SCC 1* and submitted that the parties are expected to be diligent and raise their grievances within the limitation provided by law. By highlighting paragraphs 7 to 10 from this judgment he submitted that in the instant case respondent no.6 has not at all demonstrated any sufficient cause seeking condonation of delay and the authorities have also mechanically condoned the inordinate delay after about 44 years.

7. Learned AGP as well as learned Counsel for respondent no.6 opposed the petition. Learned AGP submitted that although the Commissioner had passed elaborate order, however the same was required to be interfered by the Hon'ble Minister and the final order passed by the Hon'ble Minister directing the remand of the matter needs no interference on any count.

8. Mr. R.K. Thakkar, learned Counsel for respondent no.6 opposed the petition and submitted that there is no illegality in the

impugned order and the order of remand to Additional Collector needs no interference. He submitted that the petitioner was not diligent and despite service of notice of the proceedings before the Sub-Divisional Officer, Washim, he himself chose to remain absent and thus the contentions raised by the petitioner are afterthought.

9. While considering the rival contentions of the parties it has to be seen that the mutation entries are subjected to challenge which were confirmed in the year 1989 and 1990. Pertinently there are no allegations of any kind of fraud or mistake when mutation was confirmed and as such it was necessary to provide sufficient opportunity to all the parties concerned before the order dated 23-07-2021 was passed by the Sub-Divisional Officer, Washim. A perusal of the order passed by respondent no.2/Additional Commissioner reveals that the Sub-Divisional Officer, Washim, has passed the order without ensuring service of notice upon the petitioner and further that order is passed on the basis of search report of an Advocate. It also becomes clear that there are disputes with respect to the ownership of the property pending before the civil Court vide Regular Civil Suit Nos.132/2018 and 141/2021 and Special Civil Suit No.57/2022 amongst the other litigations, as stated in the petition. Having regard to the pendency of the litigations the order cancelling mutation entries was found unwarranted and accordingly the Divisional Commissioner has passed the elaborate order. It has to be seen that while considering the revision application, the Hon'ble Minister has although recorded certain irregularities about the mutation entries, but has without any reason issued final direction that the parties would not be entitled to raise the

issue of limitation in the proceedings. Having regard to the observations recorded by the Hon'ble Minister with respect to the irregularities in mutation entries and having regard to the pendency of several litigations with respect to the suit property, it is desirable that the matter is considered afresh by the Additional Collector as directed by the Hon'ble Minister. However, the specific direction as mentioned in paragraph 4 imposing the restrictions on the parties to raise the issue of limitation is absolutely unwarranted. In view of the controversy as revealed from the record it appears that, the issue of limitation is crucial and is required to be addressed by the authorities. As such, to this extent, the order passed by the Hon'ble Minister needs interference.

10. Having given anxious consideration to the entire controversy involved in the matter and considering the irregularities committed as referred by the Hon'ble Minister, the matter is rightly remanded to the Additional Collector. It is clarified that while deciding the controversy, the Additional Collector to take into consideration the manner of conduct of proceedings by Sub-Divisional Officer, Washim and pass appropriate orders.

11. Having regard to the above mentioned factual and legal aspects, the order passed by the Hon'ble Minister needs interference to the extent of Clause 4 and it is clarified that the issue of limitation be kept open to be decided by the Additional Collector by affording sufficient opportunity of hearing to the parties concerned.

12. In view of this, the following order is passed :

(a) Writ Petition is partly allowed.

(b) Order dated 15-02-2024 passed by the respondent no.1/Hon'ble Minister of Revenue is quashed and set aside to the extent of Clause 4 thereof.

13. Rule is made absolute in above terms.

Later on

14. A request is made by the learned Counsel for the petitioner to restrain the Authorities from carrying out any mutation based on the order passed by the Additional Collector as well as Sub-Divisional Officer in view of the fact that the proceedings were initiated after a period of about 44 years. This request is opposed by the learned Counsel for the respondents. However, considering the controversy dealt with by this Court, it is directed that during the pendency of the proceedings before the Additional Collector further mutation entries may not be effected.

15. At this stage, learned Counsel for respondent no.6 prays for stay to this judgment for a period of further four weeks, to enable the respondent to approach to the Hon'ble Supreme Court. Having regard to the controversy involved, the request is granted. This order shall remain stayed for a period of four weeks from today.

(Prafulla S. Khubalkar, J.)