



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

Writ Petition No.6148 of 2023

Nandabai Dwarkaprasad Kawale

vs.

Ajay s/o Dattuji Raut and others

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

*Mr. A.R. Patil, Advocate for the Petitioner.
Mr. K.R. Lule, A.G.P. for Respondent Nos.3 and 4.
None for Respondent No.1*

CORAM : **ANIL L. PANSARE, J.**

DATE : **1st APRIL, 2025.**

Heard.

02. Respondent No.4 - Sub-Divisional Officer has condoned the delay of 30 years in filing the appeal against the mutation entry taken in December, 1993 in favour of the petitioner. The mutation has been effected on the basis of registered sale-deed dated 26/11/1993.

03. Learned Counsel for the petitioner submits that in fact respondent No.1 had filed suit being R.C.S. No.413/2023 against the petitioner seeking cancellation of sale-deed. The suit came to be dismissed on 23/04/2024. As such, this is the subsequent development which, however, in a way, certify the mutation entry taken in the year 1993. This development appears to be a reason why none appeared for respondent No.1 today.

04. So far as the delay is concerned, the respondent No.4 has assigned strange reasons. According to respondent No.4, if delay is not condoned, respondent No.1-original appellant will get feeling of injustice. Therefore, respondent No.4 thought it appropriate to condone the delay.

05. Thus, respondent No.4 has not examined the requirement of just and sufficient reason to condone the delay but has condoned the delay only on the count that respondent No.1 would generate feeling of injustice. Thus, the settled principles of law have been ignored by respondent No.4.

06. In any case, since the suit filed by respondent No.1 against the petitioner is now dismissed, the sale-deed executed by the respondent's predecessor holds the field and since the mutation entry is effected on the basis of aforesaid sale-deed, the question of condoning the delay does not arise. The order impugned is wholly unsustainable.

07. The petition is, accordingly, allowed. The order impugned dated 26/06/2023 passed by respondent No.4-Sub-Divisional Officer, Nagpur (Rural) is quashed and set aside. The application seeking condonation of delay in filing the appeal filed by respondent No.1 is rejected. The petition is disposed of in the above terms with no order as to costs.

(Anil L. Pansare, J.)

**sandesh*