



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

WRIT PETITION NO.133 OF 2024

Rameshsingh Motisingh Gautam and ors.

.Vs.

Sundarlal Sahdeoprasad Gupta (Dead) and ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr. Nitin B. Bargat, Advocate for the petitioners.

Ms Kalyani Marpakwar, AGP for respondent Nos.11 and 12.

CORAM : MRS. VRUSHALI V. JOSHI, J.
DATE : 10.06.2025

It is the contention of the petitioners that the father of the petitioners has purchased the land situated at Mauza: Bori (Buti), Ph. No.46, Ph.No.76, Survey Nos.12 and 13 (new S.No.76) admeasuring 6.92 HR. Out of the said area of land from survey No.76, the father of the petitioners had sold 0.62 HR land in favour of Sumitradevi Gupta. More over 2.12 HR land was also sold in favour of Sunderlal Gupta and the mutation was accordingly done. After execution of the said sale deeds, 3.60 HR was in the possession of Motisingh Gautam, who is the father of the petitioners.

2. Sumitradevi Gupta and Sunderlal Gupta have

filed an application for increasing the area of land in revenue record which was not known to these petitioners. S.D.O. vide order dated 14.06.2001 increased the area of land. The S.D.O. sent the letter for review of said order dated 14.06.2001.

3. On 25.08.2023 Settlement Commissioner granted permission to review the order passed by S.D.O. without giving any opportunity to the petitioners and the said area was increased in favour of respondent Nos.1 to 6 from 2.74 HR to 3.06. HR. Respondent Nos.1 to 6 pursuant to the said order have increased the area in revenue record on 30.01.2014. Respondent Nos.1 to 6 sold said land to respondent Nos. 7 to 10 alongwith increased areas and thereafter respondent Nos.7 to 10 have started threatening and disturbing the possession of the petitioners. At that time the petitioners came to know about the mutation entry of increased area which was sold to respondent Nos.7 to 10.

4. The petitioners have filed Special Civil Suit for injunction bearing No.611/2023 and challenged the order dated 21.01.2004 in appeal before Additional Commissioner, Nagpur along with application for

condonation of delay. There was delay of 6935 days in filing the appeal, the delay was not condoned.

5. The petitioners have challenged the said order before this Court by relying upon the provisions of Section 250 of Maharashtra Land Revenue Code, 1996. As per Section 250 of the Maharashtra Land Revenue Code, 1996 the limitation starts from the date of receipt of the order. The petitioners have also contended that they were not party to said proceedings. Without considering the reasons given by the petitioners the Additional Commissioner, Nagpur, has rejected the application by passing cryptic order. Hence, learned counsel for the petitioners prayed to set aside the order passed by Additional Commissioner, Nagpur, with prayer to give an opportunity to the petitioners and remit the matter to Additional Commissioner, Nagpur, for fresh decision.

6. Though respondent Nos. 1 to 10 served, none appeared for the respondent Nos.1 to 10. Ms Kalyani Marpakwar, learned AGP for respondent Nos.11 and 12 opposed the petition stating that there is a huge delay without assigning any reasons for the same. She

submitted that the order was passed in the year 2004 and petitioners have challenged the said order in the year 2023. Hence prayed for dismissal of the petition.

7. I have heard learned counsel for the parties and perused the record. After perusal of the order passed by the Additional Commissioner, Nagpur, it appears that without considering the reasons for delay cryptic order is passed by the respondents. It appears that the petitioners came to know about the order on 28.04.2023 and thereafter they have applied and challenged the order passed by the Additional Commissioner, Nagpur. The petitioners were not the party to any of the proceedings before S.D.O. Settlement Officer has passed the order without hearing the petitioners. It is required to give an opportunity of hearing as the petitioners are the affected party. It is therefore, necessary to set aside the order passed by the Additional Commissioner rejecting the application for condonation of delay. Hence I pass the following order:-

ORDER

(i) The order dated 29.08.2023 passed in Case NO.17/SRV-43/2023 Mauza: Bori passed by the Additional Commissioner, Nagpur, is set aside.

(ii) The delay application is allowed as per prayer clause (3).

(iii) The matter is remitted back to Additional Commissioner, Nagpur, to consider and decide the issue by giving opportunity to both the parties.

(iv) Parties to appear before the Additional Commissioner, Nagpur, on 23.06.2025.

8. Writ Petition stands disposed of. No costs.

(MRS. VRUSHALI V. JOSHI J.)

manisha