



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
WRIT PETITION NO. 4636 OF 2025

Arun s/o Bhaskar Chinchpale
Aged about 52 Years, Occu : Agriculturist;
R/o Chora, Tahsil Bhadrawati, District
Chandrapur.

... PETITIONER

VERSUS

1. State of Maharashtra
through its Divisional Commissioner,
Nagpur Division, Nagpur.
2. The Sub Divisional Officer, Warora
Tahsil Warora, District Chandrapur.
3. Superintendent of Land Record,
2nd Floor, Administrative Building, Opp. S. T.
Bus Stand, Chandrapur, Tahsil and District
Chandrapur.
4. City Survey Officer, Bhadrawati
Tahsil Bhadrawati, District Chandrapur.

... RESPONDENTS

Mr. R. K. Thakkar, Advocate for Petitioner.
Mr. G. S. Umale, AGP for Respondent Nos.1 to 4.

CORAM : PRAVIN S. PATIL, J.
DATE : AUGUST 19, 2025.

ORAL JUDGMENT

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

2. In the present Petition, considering the nature of grievance raised by the Petitioner and the learned AGP appearing for all the Respondents, this matter can be disposed of finally, and accordingly, same is taken up for final disposal at the stage of admission.

3. In the present Petition, the grievance raised by the Petitioner is that Respondent No.2/Sub Divisional Officer, Warora, by order dated 11/6/2012, without issuing any notice which is mandatory as per Section 135 of the Maharashtra Land Revenue Code, 1966 (*for short, 'the MLR Code'*), decided the proceeding and thereby effected changes in the map and the revenue record of Survey No. 516 admeasuring 4.22 HR.

4. The present Petitioner, being aggrieved by the said order passed by the Sub Divisional Officer, preferred statutory appeal before the Respondent No.1/Divisional Commissioner, Nagpur Division, Nagpur. The Divisional Commissioner, Nagpur, vide order dated 19/12/2023 dismissed the said appeal.

5. It is the submission of Petitioner that the Divisional Commissioner, while passing impugned order, did not grant an opportunity of hearing to him, and therefore, he could not point out the correct legal position before the

Divisional Commissioner. As such, after receipt of the impugned order passed by the Divisional Commissioner, Petitioner has sought legal advice. Accordingly, he was suggested to file review application before the same Authority i.e. Divisional Commissioner, Nagpur.

6. Accordingly, on 1/5/2024 the Petitioner had filed the review application before the Divisional Commissioner, Nagpur along with application for condonation of delay. According to the Petitioner, there was a delay of 120 days in preferring review application before the Divisional Commissioner.

7. The Divisional Commissioner, while deciding the application for condonation of delay, had gone into the merits of the review application and by recording the finding that as there is no merit in the review application, rejected the application for condonation of delay vide order dated 9/8/2024.

8. In the background of abovesaid factual position, Petitioner approached to this Court challenging the impugned order passed by the Divisional Commissioner, Nagpur on 9/8/2024.

9. The learned AGP appearing for all Respondents supported the impugned order and stated that there is no merit in the submissions made by the Petitioner, because the Divisional Commissioner, while deciding the

application for condonation of delay, has rightly taken into consideration all the factual aspects and after considering the same, he found that there is no merit in the review application, and accordingly, passed the impugned order. Hence, according to the learned AGP, there is no merit in the present Petition and the same deserves to be dismissed.

10. After hearing both the sides and going through the entire record and the provisions of law, which are relied upon by the Petitioner in the matter, I proceed to decide the present Petition.

11. At the outset, it is stated that as per the law laid down by this Court as also the Hon'ble Supreme Court of India, while deciding the application for condonation of delay, it is not expected from the Authority below to go into the merits of the case. The Authority has to only consider whether there is a sufficient reason put-forth by the Applicant to condone the delay or not. However, from perusal of the order it is *prima facie* clear that the Divisional Commissioner has touched the merit of the matter and thereby rejected the application for condonation of delay and consequently the review application. As such, the impugned order is not sustainable in the eyes of law.

12. It is further pertinent to note that the Petitioner in his application

for condonation of delay has specifically made averments that the order passed by the Divisional Commissioner dated 19/12/2023 was received by him on 26/12/2023 and after receipt of the order, he had sought legal advise in the matter. However, he was confused as to whether he should file Appeal against the impugned order or review application, as there is no consideration of material legal provision in the matter. As such, some time was consumed in the matter.

13. It is further stated by the Petitioner that he being an agriculturist, is not having legal knowledge, and therefore, considering the aforesaid reason, the delay of 120 days caused in preferring review application is not deliberate, and therefore, delay caused in preferring review application deserves to be condoned.

14. Perusal of the impugned order nowhere disclosed that the Divisional Commissioner had considered the submissions made by the Petitioner while deciding application for condonation of delay. He only stated in the impugned order passed by the Divisional Commissioner that while advancing argument on the application for condonation of delay the Petitioner failed to point out specific reason for delay, and therefore, the application deserves to be rejected.

15. In the circumstances, I am of the considered opinion that the findings recorded by the Divisional Commissioner are not in consonance with the settled principles of law, and therefore, same deserves to be quashed and set aside.

16. In addition to above, it is specifically pointed out by the Petitioner that under Section 135 of the MLR Code, before effecting any change in the boundaries of village, field, or holding boundaries, or errors in survey numbers and their sub divisions of area, it is necessary to issue notice and conduct formal enquiry in the matter. But according to him, this submission is not considered by the Authorities below, and therefore, he is having a good ground for review in the matter. Therefore, Petitioner needs an opportunity to decide the application on its own merit. In the result, I proceed to pass following order.

ORDER

- (a) Writ Petition is partly allowed.
- (b) The impugned order dated 9/8/2024 passed by the Respondent No.1/Divisional Commissioner, Nagpur is hereby quashed and set aside.

- (c) The delay of 120 days caused in filing review application is hereby condoned.
- (d) The Review Case No. 08/SRV/43/2024-25, Mouza Chora, Tahsil Bhadrawati, District Chandrapur is hereby remanded back to the Divisional Commissioner, Nagpur for consideration afresh in accordance with law.
17. Rule is made absolute in above terms. No order as to costs.

[PRAVIN S. PATIL, J.]