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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 11202 OF 2024

Abhishek Atmaram Varinge and Ors.

.. Petitioners

Versus

Rama Damu Varinge and Ors.

.. Respondents

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- Mr. Nitin Deshpande a/w. Ms. Rachna Harpale, Ms. Anjali Shinde and Dr. Santosh K., Advocates for Petitioners.
 - Mr. Mangesh Bhende, Advocate i/by Digajmaan Mishra, Mr. Arpit K. Ashok, Mr. Yashmaan Mishra, Advocates for Respondent Nos.1 to 9.
 - Mrs. V.S. Nimbalkar, AGP for Respondent Nos.10 and 11 – State.

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 17, 2026.

P.C.:

1. Heard Mr. Deshpande, learned Advocate for Petitioners; Mr. Bhende, learned Advocate for Respondent Nos.1 to 9 and Mrs. Nimbalkar, learned AGP for Respondent Nos.10 and 11 – State.

2. The order impugned in the present Writ Petition is dated 18.04.2024 passed by the Sub-Divisional Officer (for short ‘SDO’) in RTS No.108 of 2023. Copy of the same is appended at Exhibit ‘F’ - page No.30 of the Petition. Concerned property which is the subject matter of the said Application is Gat No.189 and Gat No.204 having old Survey Nos.68/1 and 77/1.

3. Apart from the said property, substantial and other properties were also standing in the name of original holder and occupant by virtue of Mutation Entry No.217 effected as early as in the year 1930 in the Revenue Record which is apparent from the record of the case.

4. Private Respondents before me are 9 Appellants before the SDO. In the year 2023, for the first time they have challenged the Mutation Entry No.217, *inter alia*, in RTS proceedings on the premise that by virtue of the said Mutation Entry, the vahivat / right of way of the private Respondents was trampled with by the Talathi while effecting the said Mutation Entry 217 in the year 1930, *inter alia*, in respect of the subject Survey Numbers as also three other Survey Numbers.

5. It is averred by the private Respondents that the descendants of the original owner expired in the year 1969 which led to passing of further Mutation Entry No.658 by bringing on record his legal heirs. There is also reference to a further Mutation Entry Nos.702 and 789, *inter alia*, in respect of the subject lands for bringing on record the legal heirs of the deceased / demised holders / owners.

6. Grievance of the private Respondents is that when Mutation Entry No.217 was effected in the year 1930, names their predecessor-in-title was dislodged. However, the delay of 93 years is *prima facie*

unexplained. The learned SDO has considered the Application for seeking condonation of delay which is sans any reasons and merely on the basis of above reason, returned the finding that on an overall consideration, the Application for condonation of delay of 93 years deserves to be allowed and the Appeal deserved to be admitted.

7. *Prima facie* the Court observes that there is humongous delay of 93 years, rather it is unexplained. Pursuant to the original Mutation Entry, there is reference given to atleast 7 Mutation Entries which have been effected thereafter in the impugned order itself while tracing out the trajectory of the holders and their legal heirs who are their successors-in-title. If at all private Respondents are aggrieved, the correct course of action for them would be to approach the Civil Court seeking appropriate declaratory relief and not by way of RTS proceedings to challenge a long standing settled Mutation Entry after 93 years. It is seen that cause of action by private Respondents is primarily based on the original Mutation Entry No.217 of the year 1930.

8. Learned Trial Court / SDO while condoning the delay has referred to certain judgments passed by this Court and applied the ratio of the said judgments to the present case by holding that unintentional lapses of a litigant should not result in closing the doors of the Court permanently and effort of Court should not be one of

finding means to pull down the shutters of adjudicatory jurisdiction before a party who seeks justice on account of any mistake committed by him, but to see whether it is possible to entertain his grievance, if it is genuine. In my opinion the unexplained humongous delay of 93 years and facts of the present case do not justify the sufficient cause made out by the private Respondents at all.

9. The citations referred to and relied upon by the learned SDO do not apply to the facts of the present case while condoning the delay of 93 years, much less without even mentioning that much delay and merely stating that on a consolidated consideration of the facts, the delay will have to be condoned and this is unacceptable and cannot be countenanced.

10. The order dated 18.04.2024 is *prima facie* not sustainable and deserves to be quashed and set aside. As such, the impugned order dated 18.04.2024 is set aside.

11. Leave and liberty is granted to the aggrieved private Respondents to approach the Civil Court for any substantive relief that they may have in the subject property strictly in accordance with law.

12. With the above directions, Writ Petition is allowed and disposed.

[MILIND N. JADHAV, J.]

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by AJAY
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