



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

WRIT PETITION NO. 216 OF 2025

KU. ANVESHNA GYANPRASAD PATHAK

VERSUS

THE ADDITIONAL COLLECTOR, NAGPUR AND OTHERS

Office Notes, Office Memoranda of Coram,
appearances, Court's Orders or directions and
Registrar's order

Court's or Judge's Order

Mr. V. V. Bhangde, Advocate for the petitioner.
Ms. Prachi T. Joshi, A.G.P. for respondent nos. 1 and 2.
Mr. R. M. Sharma, Advocate for respondent no.3
Mr. Mandar R. Pande, Advocate for R.Nos.4(i,ii,iii), 5, 6(ii,iii,iv,v)

CORAM : M. W. CHANDWANI, J.

DATE : JANUARY 05, 2026.

1. Heard.
2. By this petition, the petitioner challenges the order dated 30.08.2024 passed by respondent no.1 – Additional Collector, Nagpur, whereby the order dated 22.04.2022 passed by respondent no.2 – Sub Divisional Officer, Saoner permitting to mutate the name of respondent no.3 by cancelling entry mutated in the name of the petitioner in the revenue record has been confirmed.
3. It is not necessary to go into the facts of the case in detail. Suffice to say that respondent no.3 filed an appeal under Section 247 of the Maharashtra Land Revenue Code, 1966 (hereinafter referred to as “the MLR Code”) seeking cancellation of mutation entry effected in favour of the petitioner after considerable period of 29 years without there being any application for condonation of delay. The said appeal came to be allowed by respondent no.2 – Sub Divisional Officer which was confirmed by

respondent no.1 – Additional Collector.

4. The only point raised in this petition is that after the expiry of statutory period of limitation, the appeal cannot be entertained by the authority without there being an application for condonation of delay or without mentioning the reasons in the memo of appeal for not approaching the authority within limitation.

5. The learned counsel appearing for the petitioner seeks to rely on the decision in the case of ***Balkrishna Sadashiv Thakur and others .vs. Prabhakar Sadashiv Thakur and others***, reported at **2021 (5) Mh.L.J. 669**, more particularly paragraph 15 which is reproduced as under :

“15. In view of the above settled legal position and the particular facts of the present case, it is an admitted position that respondents have not filed the application for seeking condonation of delay to file statutory appeal to challenge mutation entry No.508 dated 17.10.2010. In that view of the matter, it is settled that any order passed by the Court / Authority would be without jurisdiction and nullity. It is important to note that the petitioners have consistently from inception in all their pleadings maintained this ground. In the present case neither the Appellate Authorities nor the Revisional Authorities have examined the question of delay though it has been consistently raised by the petitioners, particularly when there was no application or order condoning the delay in the proceedings in the first instance. Therefore, in other words the appellate authorities and the revisional authorities have acted without jurisdiction in deciding the proceedings on merits and without

first condoning the delay. Unless the delay was condoned appellate authorities and the revisional authorities have no jurisdiction to entertain the appeal in law.”

6. Reliance has also been placed on the decision in the case of ***Shrikant R. Sankanwar and others .vs. Krishna Balu Naukudkar***, reported at ***2003 (2) Mh.L.J. 276*** wherein, in paragraph 15 it has been held as under :

“15. In the case in hand it is not in dispute that the petitioners had produced a registered sale deed dated 15-7-1998 while requesting for entry in their favour in mutation register. The Talathi based on the said document had allowed the application filed by the petitioners and had carried out necessary mutation in the register. The Sub-Divisional Officer while dealing with the appeal against the decision on mutation of entry, assuming illegally, the jurisdiction of the authorities under the Tenancy Act sought to deal with the controversy pertaining to the tenancy claim and right under the provisions of The Bombay Agricultural Tenancy Act, 1948, sought to set aside the said decision of Tahsildar allowing the application for mutation of entry, and thereby clearly transgressed the jurisdiction of the revenue authorities available under the provisions of the said Code and the said rules in relation to disputes pertaining to the mutation of entries. Additional Divisional Commissioner by confirming the said order of the said Divisional Officer reiterated the same illegality: Apparently both the authorities have acted illegally and beyond the powers vested in them in relation to the proceedings pertaining to mutation of entries under the said Code and the said rules, and therefore the orders passed by them cannot be sustained and are liable to be quashed and set aside. At the same time it is also to be noted that in case there is any application by the respondents for mutation of entries in their favour based on any valid and lawfully registered document or any

decision pronounced by any court or judicial or quasi-judicial authority competent to pronounce such decision, certainly the Authorities acting under sections 149 and 150 of the said Code cannot ignore such application nor can refuse to carry out the mutation in accordance with the declaration of right in favour of the party by virtue of such decision of the Court or the competent Authority. In case of any conflict between such entries, the parties have to settle the dispute by taking resort to the regular remedy available under appropriate statutes but the revenue authorities acting under sections 149 and 150 of the Code cannot assume jurisdiction to decide about the rights of the parties in relation to properties, while acting under those provisions for the purpose of mutations. Albeit, the revenue authorities can certainly decide in such cases, the issue of actual possession. However, such decision would be final, subject to the decision of the civil court in that regard.”

7. The learned counsel for respondent no.3 vehemently submitted that his father is the purchaser of the suit property from the original owner. However, due to non-compliance of the direction by the Tahsildar of mutating the name of the original possessor i.e. father of respondent no.3, the mutation entry remained to be carried out in the Record of Rights. Consequently, the original owner again sold the land to the predecessor of the petitioner. After getting the knowledge of the same, the aforesaid appeal came to be filed.

8. The contention is that though indirectly the mutation entry has been challenged, but the fact remains that before the S.D.O., respondent no.3 sought for compliance of the direction to the Talathi by the Tahsildar. Rather, he asked for performance of the duty

by the Patwari to mutate the name of the father of respondent no.3 in wake of the registered sale deed in favour of his father.

9. Having heard both the parties at length and having gone through the record, it appears that the appeal filed by respondent no.3 is nothing but a challenge to the mutation entry effected by the Patwari in favour of the petitioner and confirmation of it by the Circle Inspector.

10. Needless to mention that the memo of appeal filed by respondent no.3 mentions the title as appeal under section 247 of the MLR Code. As per Sections 250 and 251 of the MLR Code, the period of limitation for filing an appeal under Section 247 of the MLR Code is 60 days. Having found that no application for condonation of delay was filed and even the memo of appeal does not depict the reasons for delay in preferring the appeal; in my view, in wake of the provisions of Sections 250 and 251 of the MLR Code as well as the observations made by the Hon'ble Supreme Court in the case of *Balkrishna Sadashiv Thakur (supra)* and *Shrikant r. Sankanwar (supra)*, the appeal has been filed beyond the period of limitation. Therefore, the order passed by respondent no.2 – Sub Divisional Officer, Saoner is without jurisdiction and does not stand to the reason.

11. The matter needs to be remanded back to respondent no.2 – Sub Divisional Officer, Nagpur with liberty to respondent no.3 either to file an application for

condonation of delay or to amend the memo of appeal by incorporating the reasons for delay.

12. Accordingly, the writ petition is partly allowed.

13. The order dated 22.04.2022 passed by respondent no.2 – Sub Divisional Officer, Saoner as well as the order dated 30.08.2024 passed by respondent no.1 – Additional Collector, Nagpur are quashed and set aside.

14. The matter is remanded back to respondent no.2 – Sub Divisional Officer, Nagpur. Respondent no.3 is at liberty either to file an application for condonation of delay or to amend the memo of appeal by incorporating the reasons as to why he did not approach the authority for a considerable period.

15. Considering the fact that the dispute is quite old, if such an application is filed, the Sub Divisional Officer, Nagpur shall decide the same preferably within two months after appearance of both the parties before him.

16. The parties are directed to appear before the Sub Divisional Officer, Nagpur on 19.01.2026.

17. The writ petition stands disposed of in the aforesaid terms. No costs.

(M.W.Chandwani, J.)

Diwale