

Prasad Rajput
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.380 OF 2024

Kanchan Gajanan Patil and Ors.

.. Petitioners

Versus

Kamlabai Atmaram Patil Sincd Decd. Thr. Lrs. and Ors. .. Respondents

.....

- Mr.S.G.Karandikar i/by Mr. Jayesh Joshi, Advocate for Petitioner.
- Mr. Hamid Mulla, AGP for Respondent - State.

.....

CORAM : MILIND N. JADHAV, J.

DATE : AUGUST 13, 2025

P. C.:

1. Heard Mr..Karandikar, learned Advocate for Petitioner and Mr. Mulla, learned AGP for Respondent - State.

2. Present Writ Petition assails order passed by the State which restores original order passed by the SDO allowing RTS appeal in a challenge maintained to mutation entry after almost 40 years.

3. It is the case of Petitioners that the SDO did not hear Petitioners in whose favour mutation entry existed and allowed RTS Appeal *exparte* after condoning delay of 40 years. Said order of SDO is upheld by the Collector but in Revision the Additional Commissioner reversed both the aforesaid orders. Petitioners are aggrieved because in second Revision filed before the State, the learned Minister set aside

the order passed by Additional Commissioner and restored SDO's order.

4. Grievance made by learned Advocate for Petitioners is that delay of 40 years was condoned by the SDO which was itself humongous and that too without hearing Petitioners. Property is situated in Palghar. Names of Petitioners / Petitioners' predecessor in title were in existence in mutation entry No.936 on and from 18th January, 1980. Challenge to the mutation entry is maintained for the first time in the year 2019 by private Respondents alongwith Application for condonation of delay. It is also seen from record that Petitioners filed Regular Civil Suit bearing No.118/2021 for injunction. I am informed that Exhibit - 5 Application is still not heard despite it being filed 4 years ago.

5. Be that as it may, a strong case has been made out by Mr. Karandikar. Notices have already been issued previously. Today when the Petition is called out private Respondents are not present. Record shows that there was some difficulty in serving the private Respondents through the Court but Affidavit of service dated 27.02.2024 has been filed by Petitioners which shows that private Respondents have been served.

6. One final opportunity is therefore given to private Respondents to remain present on the next adjourned date. This is only because learned AGP informs the Court that he has not been served since he espouses the cause of the Government officers who are impleaded in the present Petition.

7. Copy of Petition is handed over to Mr. Mulla. He is directed to take appropriate instructions as to whether Petitioners were heard or otherwise while determining the RTS appeal No.28/2019 by the SDO and apprise the Court on the next adjourned date to enable this Court to determine the present Writ Petition.

8. Stand over to **3rd September, 2025.**