IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 965 OF 2006

RAJARAM KONDIRAM GAIKWAD AND OTHERS
VERSUS
BHIKA RAJARAM PAIKADE AND OTHERS

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Advocate for the Petitioners : Mr. B. R. Surwase
Advocate for Respondent No. 2 : Mr. Anil A. Joshi
Advocate for Respondent No. 3 : Mr. Sanjay K. Ghatvisave
AGP for Respondents-State : Mr. P. D. Patil
Advocate for Respondents No. 1-A, 1-B, 2-B : Senior Counsel Mr. N. B. Khandare i/b Mr. S. S. Gangakhedkar a/w Mr. V. A. Babras
Advocate for Respondents No. 7 to 9 : Mr. S. G. Magre

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WITH
CIVIL APPLICATION NO. 4666 OF 2025
IN WP/965/2006

AASHA MADHUKAR BHUJANGE AND OTHERS
VERSUS
RAJARAM KONDIBA GAIKWAD AND ORS

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Advocate for Applicants : Mr. V. P. Latange

WITH
CIVIL APPLICATION NO. 7803 OF 2026
IN WP/965/2006

SHEETAL BABAN BHUJANGE
VERSUS
RAJARAM KONDIRAM GAIKWAD AND OTHERS

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Advocate for Applicant : Mr. B. G. Lathe

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WITH
CIVIL APPLICATION NO. 3776 OF 2019

IN WP/965/2006

SUMANBAI BANSHI PAIKDE AND OTHERS
VERSUS
RAJARAM KONDIRAM GAIKWAD AND OTHERS

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Advocate for Applicants : Mr. S. G. Magre

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WITH
CIVIL APPLICATION NO. 12893 OF 2024
IN WP/965/2006

PANDHARINATH NARAYAN MOKALE AND OTHERS
VERSUS
BHIKA RAJARAM PAIKADE DIED THR LRS LAXMAN AND OTHERS

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Advocate for Applicants : Mr. B. R. Survase

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WITH
CIVIL APPLICATION NO. 12892 OF 2024
IN WP/965/2006

BHIKA RAJARAM PAIKADE DIED LRS LAXMAN DIED SHANTABAI AND OTHERS
VERSUS
PANDHARINATH NARAYAN MOKALE AND OTHERS

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Advocate for Applicants : Mr. S. S. Gangakhedkar

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CORAM : SACHIN S. DESHMUKH, J.
Date : 11th September, 2026

JUDGMENT :-

1. The Petitioners have presented the Petition challenging the order dated 06.09.2004 rendered by the Deputy Collector

(Land Record), Aurangabad in file number 2003/LR/TNC/A/6, has been endorsed the order dated 24.10.2005 by the Divisional Commissioner, Aurangabad in Revision Petition number 33/A/2005, whereby the names of the Respondents entered into the ownership column of the 7/12 extract of the subject land and that possession be restored to them as heirs of the Watandars under the Bombay Inferior Village Watans Abolition Act, 1958.

2. The dispute concerns land Sy. No. 67, ad-measuring 16A-6G, situated at Village Harsool, Taluka and District Aurangabad. The said land was allotted as Mahar Hadola service Inam land. The revenue records in Namuna No. 9 from the year 1353 Fasli confirm that the Sanad was issued in favour of the Mahar Hadola community and the land was recorded as non-transferable under the Bombay Inferior Village Watans Abolition Act, 1958.

3. The appointed managers were Bhika Rajaram Paikade, Dagdu Dhondiram Magre and Jairam Shivaram Bhujange. These individuals subsequently took undue advantage of their status and attempted to execute an agreement to sell the land to a tenant named Daulat Ramlal. Therefore, the community presented an

objection through the petitioners against this transfer before the Tahsildar, Aurangabad on 22.12.1977. Following an inquiry, the Tahsildar issued an order on 30.12.1977 declaring the transfer invalid and illegal, deleting the tenant's name and restoring the occupancy rights. The Deputy Collector acceded the Respondents' claim and the said decision was upheld in revision by the Divisional Commissioner. Being aggrieved, petitioners approached this Court.

4. Mr. Surwase, the learned Counsel for the petitioners submitted that the impugned orders suffer from patent illegality. The subject land, Survey No. 67 at Village Harsool, is a protected Mahar Hadola (service Inam) land collectively granted to the Samastha Mahar Community via the Sanad recorded in Namuna No. 9 in 1353 Fasli. The ancestors of Respondent Nos. 1 to 3 were never absolute owners; however, were merely designated by the community as representatives to ensure cultivation and deposit of land revenue. This non-transferable nature was affirmed in December 1977, when the Tahsildar invalidated an unauthorized private alienation and restored the land to the community at large.

5. The Counsel further submitted that the Revenue Authorities exceeded the jurisdiction under the Bombay Inferior

Village Watans Abolition Act, 1958, while separating community Inam property into individual shares. By declaring that the respondents hold exclusive 1/3rd ownership shares, the Deputy Collector and Divisional Commissioner arbitrarily divested the community of their protected ancestral interest. It is further submitted that the Authorities failed to conduct a mandatory inquiry, thereby rendering the mutation orders legally unsustainable and perverse. Thus, prayed that the writ petition be allowed.

6. Mr. Magre, the learned counsel appearing for respondents No. 7 to 9, supported the submissions put forth by the petitioners and submitted that the application presented by the petitioner is outside the jurisdiction of the Tahsildar. The statutory framework of the Bombay Inferior Village Watans Abolition Act, the Collector is designated as the Competent Authority. Therefore, it is within the Collector's power to determine issues, such as whether a particular land constitutes 'watan land', whether a claimant qualifies as a 'watandar', or if a person is an 'unauthorized holder' of such property.

7. The learned counsel further submitted that by virtue of

Section 18 of the Act, the statute restricts the delegation of powers. Any delegation can only be made to an officer of an appropriate rank and not below the rank of a Deputy Collector. Consequently, the adjudication and subsequent decision rendered by the Tahsildar in this matter represents a case of overreach and absence of jurisdiction. The objection raised by the petitioners that the mutation entries and the inclusion of the respondents' names in the revenue records. Therefore, the dispute essentially and predominantly has to be referred to as an adjudication under Section 3 of the Act by the Collector or Competent Authority.

8. Mr. Magre submitted that these defects were ignored by respondent No. 5 (the Divisional Commissioner) while rendering the impugned order. The Revisional Authority failed to appreciate the errors of law and erroneously dismissed the revision petition. As such, petition deserves to be allowed as prayed.

9. Mr. Khandare, the learned Senior Counsel for the contesting respondents, supported the impugned orders submitting that the record unequivocally indicates the regrant of the suit land in favour of the respondents. The regrant forms the foundation of the respondents' title and possessory rights over the property. The

restoration of revenue entries and possession was a legal consequence of the valid regrant, resulted in the inclusion of the respondents' names to the extent of their quantified shares.

10. It is further submitted that the order of regrant passed in favour of the respondents has never been challenged by the petitioners at any stage or before any competent forum. In absence of challenge, the order of regrant has attained finality. As such, the same cannot be reopened in the present writ petition.

11. It is also submitted that the attempt to dispute the regrant or the individual shares recorded by the revenue authorities, such challenge is now time-barred. Since the petitioners failed to approach the authority within the prescribed statutory period of limitation under Section 3 of the Act, therefore, the proceeding suffers from laches and delay, and therefore, deserves to be dismissed.

12. Mr. Khandare, the learned Senior Counsel has placed reliance upon the following judgments :-

(a) **Vithal Kondhalkar Vs. The State of Maharashtra (1981 Bom. CR 32)**

(b) **Writ Petition No. 3885 of 1996 (Vitthal Tanku**

Kalim Vs. Laxman Goty Attarde) delivered by this Court on 03.02.2020

(c) **Vishwanath Sahadu Wakhare and Ors. Vs. State of Maharashtra and Ors. [(2025) SCC OnLine Bom. 5081]**

(d) **Deepak Tandon and Anr. Vs. Rajesh Kumar Gupta [(2019)5 SCC 537]**

13. Having heard the learned counsel for the respective parties and upon perusal of the material on record, the issue that falls for determination before this Court is whether the Revenue Authorities (the Deputy Collector and the Divisional Commissioner) acted within jurisdiction while directing the names of the Respondents to be mutated for individual 1/3rd shares in the ownership column of the 7/12 extract of Survey No. 67. The grievance of the Petitioners' is that the subject land belongs collectively to the Community and cannot be partitioned or confined to individual private shares.

14. To appreciate the controversy, it is necessary to refer to the statutory mechanism under the Bombay Inferior Village Watans Abolition Act, 1958. Upon the commencement of the Act, all inferior village watans stood abolished, and the lands vested in the State Government. Such lands are subsequently regranted to

the lawful Watandars subject to the payment of the prescribed occupancy price. In the present case, the revenue record unequivocally establishes that an order of regrant was passed by the competent authority in favour of the predecessors-of-interest of the Respondents.

15. It is an admitted fact that the original order of regrant was never challenged by the Petitioners before any competent appellate or revisional forum within the prescribed limitation period. Mutation and revenue entries are merely consequential ministerial acts that reflect the substantive rights settled predominantly by the order of regrant. Since the order of regrant rendered in favour of the Respondents remains valid and unchallenged, it has attained finality. The Petitioners cannot be permitted to challenge the validity of a substantive order of regrant by merely challenging the consequential mutation entries.

16. The declarations and inquiries under the Act date back to December 1977. The Petitioners have chosen to approach the Revenue Authorities at first instance after lapse of several decades. Allowing a challenge to such an old regrant mechanism at this belated stage would undermine security of title and render the

statutory provisions redundant. Consequently, the proceedings initiated by the petitioner suffers from the doctrine of delay and laches.

17. The submission of Petitioners' that the land belongs to the entire community, the Revenue Authorities have noted that the names of the three original heads of the families, Paikade, Magre, and Bhujange, have been continuously associated with the management, cultivation and occupancy of this land. The Deputy Collector (Land Records) and the Divisional Commissioner conducted inquiries and determined that the Respondents, as the legal heirs of these three individuals, are entitled to have their names mutated to the extent of their identified 1/3rd individual shares.

18. The record is devoid of evidence to indicate that the regrant was meant to be a community-wide allotment. On the contrary, it endorses that the order of regrant was specifically confined to the individual predecessors of the Respondents No. 1A, 1B and 2B .

19. The submission put forth by the counsel for the

Petitioners that the action of the Tahsildar was a jurisdictional overreach is fundamentally unfounded. The original proceedings in 1977 dealt with the removal of unauthorized occupancy or encroachments upon ex-inferior village service watan lands. The Tahsildar's recourse to summary eviction was a valid exercise of statutory power. Under the law, the term 'Code' refers the regional land revenue frameworks, shifting from the Hyderabad Land Revenue Act, 1317 Fasli to the present Maharashtra Land Revenue Code, 1966.

20. The authority of the revenue officer to evict an unauthorized holder and manage regrant mechanisms is no longer res integra. The said position is settled by the authoritative pronouncement of this Court in the case of **Vitthal Kondhalkar Vs. State of Maharashtra (supra)**, wherein it was observed as under :-

> *"8. In all these five petitions before us, the respective Collectors have passed orders of eviction against the petitioners under section 59(b) of the Code. The whole of section 59 of the Code is being reproduced below for ready reference :---*
>
> *59. "Any person unauthorisedly occupying, or wrongfully in possession of any land--*
>
> *(a) to the use or occupation of which by reason of any of the provisions of this Code he is not entitled or has ceased to be entitled, or*

(b) which is not transferable without the previous permission under sub-section (2) of section 36 or by virtue of any condition lawfully annexed to the tenure under the provisions of sections 31, 37 or 44, may be summarily evicted by the Collector."

9. The Collectors have taken action and passed orders of eviction against the petitioners only under Clause (b) of section 59. We may indicate here as to who are the petitioners before us. Broadly speaking they are either purchasers of land from ex-Watandars after execution of a regular registered sale-deed on payment of consideration or they are intending purchasers or the prospective purchasers who had executed an Agreement of sale and have further obtained possession by paying the entire sale price under the contract itself. In some cases under contemplation payment of ten times the assessment has been made but there is no specific order passed by the Collector inspite of such payment having been made. In one or two cases, it appears, the ex-Watandars have paid merely three times the assessment which is the occupancy price and have obtained the occupancy rights under sub-section (1) of section 5 of the Abolition Act. They have not paid the additional amount of ten times the assessment under sub-section (3) of section 5 of the Abolition Act. Inspite of the non-payment in this manner under sub-section (3) of section (5) of the Abolition Act, the purchasers have obtained sale-deeds and entered upon the possession of those lands. "

21. As such, the Tahsildar merely implemented the mandates flowing from Section 59 of the Code to clear the land for the lawful regrantees. Hence, the objection regarding jurisdictional overreach does not warrant consideration.

22. The Petitioners' challenge to the Tahsildar's jurisdiction

further does not warrant consideration since the dispute raised does not fall within the scope or ambit of Section 3 of the Act. Section 3 contemplates specific statutory contingencies and declarations regarding watan tenure. The application presented by the Petitioners, being an objection to a mutation entry, does not fit into any of the statutory categories contemplated under aforesaid provisions.

23. In view of the aforesaid peculiar facts and circumstances, it is not open for the Petitioners to contend contrary to the issue of re-grant. Attempting to use an objection against a mutation entry to overturn a long-settled estate, the Petitioners are acting in direct violation of the Doctrine of Finality.

24. It is a well-established principle that the High Court, while exercising its extraordinary jurisdiction under Article 227 of the Constitution of India, does not sit as a Court of Appeal to re-appreciate pure findings of fact recorded by lower tribunals. The scope of interference is limited to correct errors of law, patent illegality, or perversity. As held by the Hon'ble Supreme Court in the case of **Basamma & Anr. Vs. Goparappa and Ors. (2026 INSC 712)**, a High Court exercising its supervisory jurisdiction

under Article 227 of the Constitution cannot transform itself into an appellate court to re-appreciate evidence, well-reasoned findings of fact unless demonstrable perversity.

25. The Authorities i.e. Deputy Collector and the Divisional Commissioner have concurrently rendered findings based on available revenue records and the finality of the previous concluded inquiries. Therefore, I find no perversity or illegality in the impugned orders warranting interference.

26. The reliance placed by the learned Senior Counsel for the Respondents on the legal principles, especially regarding the finality of unchallenged re-grant orders and the bar on belated challenges, supports the case of the Respondents.

27. In view of the above discussion, the Writ Petition sans merit. Hence, following order :

ORDER

(I) The Writ Petition No. 965 of 2005 is dismissed.

(ii) The impugned judgment and order passed by the Deputy Collector (LR), Aurangabad dated 06.09.2004, and endorsed by the Divisional Commissioner,

Aurangabad dated 24.10.2005, are hereby upheld.

(iii) Rule is discharged.

(iv) There shall be no order as to costs.

20. Pending civil applications also stand disposed of.

(SACHIN S. DESHMUKH, J.)

21. After pronouncement of the judgment, the learned counsel for the petitioners prayed for a stay on its implementation to enable the petitioners to approach the Hon'ble Supreme Court. The counsel further submitted that the interim relief granted on 05.03.2007 had been operating in favour of the petitioners.

22. Considering the request made by the learned Advocate for the petitioners and in view of the fact that interim relief was operating in favour of the petitioners, the operation and implementation of the judgment and order shall be stayed for a period of twelve (12) weeks from today.

(SACHIN S. DESHMUKH, J.)