



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9059 OF 2014

1. Harishchandra s/o Babu Jagdale,
Age: 62 years, Occu: Agriculture,
R/o Takali (Dhoki), Tq. and Dist. Osmanabad

2. Kishan s/o Babu Jagdale,
Age: 53 years, Occu: Agriculture,
R/o as above.

3. Achut s/o Babu Jagdale,
Age: 48 years, Occu: Agriculture,
R/o as above.

4. Manik s/o Babu Jagdale,
Deceased through his Legal Representatives

5-A) Latabai Manik Jagdale,
Age: 45 years, Occu: Household,
R/o Takali (Dhoki), Tq. and Dist. Osmanabad.

5-B) Sham s/o Manik Jagdale,
Age: 24 years, Occu: Agriculture,
R/o as above.

5-C) Ranjeet s/o Manik Jagdale,
Age: 18 years, Occu: Agriculture,
R/o as above.

5-D) Jaisingh s/o Babu Jagdale,
Age: 43 years, Occu: Agriculture,
R/o as above

.... PETITIONERS

VERSUS

1. Waman s/o Namdeo Jagdale,
Deceased through his Legal Representatives

1-A) Narhari s/o Waman Jagdale,

-2-

Age: 58 years, Occu: Agriculture,
R/o. Takali (Dhoki), Tq. and Dist. Osmanabad.

1-B) Shrihari s/o Waman Jagdale,
Age: 48 years, Occu: Agriculture,
R/o as above.

1-C) Rama s/o Waman Jagdale,
Age: 43 years, Occu: Agriculture,
R/o as above.

2. The District Inspector of Land Records,
Osmanabad, Tq. & Dist. Osmanabad.
3. The Deputy Director of Land Records,
Aurangabad Division, Aurangabad

.... RESPONDENTS

Advocate for the Petitioners : Mr. P. S. Chavan
Advocate for Respondents No. 1A to 1C : Mr. Manoj Shelke
AGP for Respondents No. 2 and 3 -State : Mr. P. D. Patil

CORAM : SACHIN S. DESHMUKH, J.

Date : 20th August, 2026

JUDGMENT :-

1. **Rule.** Rule made returnable forthwith. Heard finally
with the consent of the parties.

2. The petitioners have questioned the order dated
12.08.2014 rendered by the Deputy Director of Land Records,
Aurangabad Division, Aurangabad, in File No. Consolidation
/Appeal/SR-880/2013, allowing the appeal presented by

Respondent No. 1, setting aside a dismissal order dated 28.03.2013 passed by the District Inspector of Land Records and directed the Authorities to vary the Consolidation Scheme under Section 31A of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947.

3. The consolidation scheme was implemented and finalised for village Takali (Dhoki) under the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 and the same was published in the Government Gazette on 18.05.1978. Following the finalisation of the scheme, the parties were placed in possession of the respective consolidated holdings as per Section 21(3) of the Act. On 03.12.1979, the Consolidation Officer granted a Certificate under Section 24 of the Act in favour of Babu Jagdale, who is the deceased father of the petitioners. The certificate verified the title and possession over multiple parcels of land, including Survey No. 39/2 admeasuring 0H 59R. The revenue records were subsequently updated by the Consolidation Authorities which indicates the finalized entries and the parties continued to occupy and cultivate the lands based on the entries.

4. After a lapse of thirty years, Respondent No. 1

preferred an appeal under Section 247 of the Maharashtra Land Revenue Code before the Consolidation Authorities. Respondent No. 1 contended that prior to the implementation of the consolidation scheme, was the original owner of Survey No. 39/2 admeasuring 51R and that the land was wrongly recorded in favour of Babu Jagdale during the consolidation process.

5. The District Inspector of Land Records, Nanded, rendered an order on 28.03.2013 dismissing the appeal on the grounds that the consolidation scheme was finalized way back in the year 1978 and possessed no statutory authority to vary such a scheme after such an inordinate delay.

6. Aggrieved by the same, Respondent No. 1 presented the appeal before the Deputy Director of Land Records at Aurangabad, who rendered the order on 12.08.2014, allowing the appeal and directing a variation of the scheme under Section 31A of the Act. Being aggrieved, petitioners approached this Court.

7. Mr. Chavan, the learned counsel for the petitioners submitted that the Respondent No. 3 has committed an error and overreach while exercising a jurisdiction which is not vested. The

consolidation scheme for village Takali (Dhoki) was commenced, conducted and eventually concluded in accordance with the provisions of the Act of 1947. The finality of the scheme is evident from publication in the Government Gazette on 18.05.1978 and the subsequent issuance of the Certificate under Section 24 of the Act to the petitioners' deceased father. Once the scheme had been implemented and the parties were put in possession of the respective allotted holdings, it was impermissible for the Deputy Director of Land Records to revive an issue that had attained finality three decades ago.

8. The learned counsel further submitted that the petitioners had raised a objection regarding the jurisdiction before the Appellate Authority. However, the learned Deputy Director of Land Records, Aurangabad, while rendering the impugned order, failed to consider the same. The subsequent proceedings initiated under the garb of Section 32 of the Act for variation of the scheme are not maintainable after such an inordinate delay of 30 years.

9. In support of the contentions, the learned counsel for the petitioners has placed reliance upon the following judgments :

(a) Gulabrao Bhaurao Kakade Vs. Nivrutti Krishna Bhilare and Ors. [2001(4) Mh. L. J. 31]

- (b) Dattu Appa Patil and Ors. Vs. State of Maharashtra and Ors. [2007(1) Mh. L. J. 393]**
- (c) Ganpati Dadu Mali and Ors. Vs. State of Maharashtra and Ors. [2012 (1) Mh. L. J. 341]**
- (d) Bapu Ganda Mirje and Ors. Vs. State of Maharashtra and Ors. [2015(1) ALL MR 697]**
- (e) Suresh Bapu Sankanna and Ors. Vs. State of Maharashtra and Ors. [2018(4) Mh. L. J. 331]**

10. Per contra, Mr. Shelke, the learned counsel for Respondents No. 1A to 1C, vehemently opposed the petition and submitted that a substantial portion of land belonging to the respondents, to the extent of 0H 51R, was wrongfully reduced and taken away during the implementation of the consolidation scheme. The deprivation was effected without extending any notice or opportunity to the respondents. The learned counsel submitted that the reduction was a clerical and mathematical error committed by the consolidation authorities while implementing the scheme wherein the old survey numbers were assigned new block numbers.

11. The learned counsel further submitted that since the error committed by the authority was clerical and procedural in nature, it could be corrected or rectified at any stage. Even though the objection was brought to the attention of the authorities at a

belated stage, the learned Deputy Director of Land Records was justified in entertaining the proceedings and condoning the delay.

12. To support the contentions and demonstrate that clerical errors can be rectified despite a lapse of time, the learned counsel placed reliance upon the judgment delivered by this Court on 27.11.2013 in the case of **Suman Annasaheb Naykal Vs. The State of Maharashtra and Ors. (Writ Petition No. 9694 of 2011)**.

13. The learned AGP supported the order under challenge and prayed for dismissal of the petition.

14. Upon hearing the learned counsel for the litigating sides and perusing the entire material available on record, it is imperative to examine the statutory scheme of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947. The Act contemplates a mechanism that provides multiple opportunities to landholders to raise objections during the formulation and implementation of a consolidation scheme. Under Section 19 of the Act, when a draft consolidation scheme is ready, the Consolidation Officer is under statutory obligation to publish it

in the prescribed manner, issuing notice to all affected parties. Any landholder who feels aggrieved or likely to be affected by the draft allocations is provide a statutory period of 30 days from the date of publication to raise written objections. In the absence of any objections, the draft scheme is presumed to be implemented among the landholders.

15. Preceded by the same, under Section 20 of the Act, the Settlement Commissioner evaluates the objections, if any, verifies the correctness of the layout and confirms the scheme. Once it is confirmed, the scheme is put into enforcement under Section 21 of the Act by publishing a final notification in the Official Gazette. Eventually, the process culminates under Section 24 of the Act, which mandates the issuance of a statutory Certificate of Transfer to the allottees. The Certificate operates as a conclusive proof of title and transfer, endorsing that the holdings have been vested in the respective holders.

16. In the present case, the consolidation scheme for village Takali (Dhoki) was undisputedly published in the Government Gazette on 18.05.1978 and consequent to same, the competent authority issued the Certificate under Section 24 of the

Act in favour of the petitioners' predecessor-in-title on 03.12.1979.

17. Once a scheme is commenced, concluded and enforced through the issuance of a Certificate under Section 24 of the Act, the entire exercise attains finality. It was open to Respondent No. 1 to raise objections regarding the reduction or measurement of land during the course of the implementation of the scheme under Section 19 of the Act. There is no material on record to indicate that the respondents were deprived of a reasonable opportunity to present an objection during the implementation of scheme. Consequently, after a lapse of more than three decades, it is not open for Respondent No. 1 to reopen an issue that has attained finality.

18. The submission put forth on behalf of Respondent No. 1 that the authority can correct the entries at any belated stage taking recourse to Section 31A of the Act in order to rectify a clerical or arithmetic error, cannot be countenanced. Although Section 31A of the Act does not prescribe a specific mathematical period of limitation for correcting clerical or arithmetical mistakes, it is a settled principle of law that statutory power essentially must be exercised within a reasonable period, in absence of prescribed period.

19. The Division Bench of this Court has dealt with this aspect in detail in the case of **Gulabrao Bhaurao Kakade Vs. Nivrutti Krishna Bhilare and Ors. (supra)**. In para 6 of the **Gulabrao Bhaurao Kakade (supra)**, the Division Bench of this Court observed as under :-

"6. The power given to the Settlement Commissioner for variation of the scheme is on account of an error other than that referred to in section 31A, irregularity or informality after following the procedure prescribed. Though there is no time limit prescribed under Section 32(1) for the Settlement Commissioner to vary the scheme which has come into force, but obviously even in the absence of any period prescribed under section 32, the said power can only be exercised within reasonable period in any case. What would be the reasonable period for exercise of power under Section 32(1) by the Settlement Commissioner may depend on facts and circumstances of each case and we do not intend to lay down any specific period for exercise of that power by Settlement Commissioner but ordinarily exercise of such power after three years of finalisation of scheme under section 22 may not be Justified. In the facts and circumstances of the present case, the exercise of power by Settlement Commissioner for variation of scheme which has come into force in the year 1973, by initiating proceedings in the year 1988 cannot be said to be within reasonable time. The fact is and that is not disputed that the earlier scheme was finalised in the year 1973 under the Act of 1947 to the knowledge of all the parties concerned. Nobody was aggrieved by the said scheme finalised under the Act of 1947 and the scheme came into force under section 22. The said scheme which had been finalised in accordance with law and came into force and continued to be in force, could not have been unsettled by initiating the proceedings for variation under section 32 on the purported ground of error, irregularity or informality after a lapse of about 15

years. Thus, the exercise of power by Settlement Commissioner under section 32 for variation of the scheme in the facts and circumstances of the present case is grossly unjustified."

20. In the present case, the Consolidation scheme finalized in the year 1978 cannot be disturbed in the year 2013, notwithstanding any underlying clerical error. Therefore, the reliance placed by the respondents on the judgment in **Suman Annasaheb Naykal** (supra) does not lend any support to the case, as it cannot override the binding principles of limitation and finality of title established by the Division Bench.

21. Furthermore, the infirmity exists regarding the maintainability of the original proceedings before the Authorities below. The petitioners had raised a objection concerning the maintainability and jurisdiction of the action brought by Respondent No. 1. The record indicates that Respondent No. 1 approached the authority by invoking Section 247 of the Maharashtra Land Revenue Code, 1966.

22. This Court finds that the Act of 1947 is a self-contained statute. Chapter IV of the Act of 1947, which governs the consolidation process, does not provide any provision for the

revenue authorities to exercise appellate or revisional powers under the MLR Code to overturn or vary an order rendered under the Consolidation Act. Recourse to Section 247 or Section 257 of the MLR Code was unavailable to the respondents to question the implementation of a gazetted consolidation scheme.

23. The Deputy Director of Land Records failed to deal with the aspect of jurisdiction while exercising powers under the MLR Code. The Authority below committed an error by assuming jurisdiction under the Land Revenue Code to direct a variation of a concluded consolidation scheme under Section 31A of the Act of 1947. The Settlement Commissioner or his subordinate delegates have no authority to entertain such proceedings after an unexplained delay of 30 years.

24. In view of the aforesaid observations, the impugned order passed by the Deputy Director of Land Records ignores the statutory fetters and suffers from a absence of jurisdiction. The order under challenge is thus unsustainable. The writ petition, therefore, deserves to be allowed. Hence, following order :-

ORDER

(a) Writ Petition is **allowed**.

(b) The judgment and order dated 12.08.2014 rendered by the Deputy Director of Land Records, Aurangabad Division, Aurangabad, in File No. Consolidation/Appeal/SR-880/2013 is quashed and set aside.

(c) The order dated 28.03.2013 rendered by the District Inspector of Land Records, Nanded, dismissing the appeal of Respondent No. 1 stands restored.

(d) Rule is made **absolute** in the above terms.

(e) No order as to costs.

(SACHIN S. DESHMUKH, J.)

Omkar Joshi