

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

WRIT PETITION NO. 11699 OF 2022

1. Mahalingavva Satlingappa Hukkeri
deceased, through L.Rs.
 - A. Maruti Satlingappa Hukkeri,
Age 71 years, Occ. Agriculture
 - B. Vilas Satlingappa Hukkeri,
Age 60 years, Occ. Agriculture.
 - C. Nijlingappa Satlingappa Hukkeri,
Age 53 years, Occ. Agriculture.
 - D. Suvarna Mahadeo Kabadagi,
Age 68 years, Occ. Household.
 - E. Parvati Channappa Chimmatt,
Age 58 years, Occ. Household.
 - F. Drakshayani Vijay Arbhavi,
Age 55 years, Occ. Household,
All r/o. At Baswan Galli, Sankeshwar
Tq. Hukkeri, Dist. Belgavi,
Karnataka
2. Vilas Satlingappa Hukkeri,
Age 60 years, Occ. Agriculture,
R/o. At Baswanna Galli, Sankeshwar
Tq. Hukkeri, Dist. Belgavi.
3. Prakash Bharna Jadhav
(since deceased through L.Rs.
 - 3A. Smt. Babytai Prakash Jadhav,
Age 48 years, Occ. Household.
 - 3B. Sou. Basavshatri Basgonda Patil,
Age 29 years, Occ. Household.

- 3C. Shri. Tejas Prakash Jadhav,
Age 29 years, Occ. Household.
All r/o. Khandal, Tq. Gadhinglaj,
Dist. Kolhapur, currently residing at
Sankeshwar Tq. Hukkeri, Dist. Belgaum.
... **Petitioners**

Versus

1. Laxman Babu Jadhav,
Age 64 years, Occ. Agriculture,
R/o. At Khandala, Tq. Gadhinglaj,
Dist. Kolhapur.
 2. State of Maharashtra,
Through the Hon'ble Minister,
Department of Revenue, having his
office at Mantralaya, Mumbai-32.
 3. Additional Commissioner Revenue,
Pune Division, Pune, having his office
at Council Hall, Vidhan Bhavan,
Bund Garden Road, Camp Pune-1.
 4. Additional Collector, Kolhapur,
Having his office at Nagala Park,
Kolhapur.
 5. Sub Divisional Officer, Gadhinglaj,
having her office at Gadhinglaj,
Dist. Kolhapur.
 6. Tehsildar of Gadhinglaj,
having his office at Gadhinglaj,
Dist. Kolhapur.
- ... **Respondents**

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Advocate for Petitioners : Mr. Chetan Patil a/w Adv. Ajay Raje
Nimbalkar i/by Adv. Mrinal Shelar

Advocate for Respondent No. 1 : Mr. Tejpal Ingale a/w Adv.
Vaibhav Kupawade

Advocate for Respondent nos. 2 to 6 : Mr. Santosh A. Jadhav
Govt. Counsel Panel 'B'.

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CORAM : SHAILESH P. BRAHME, J.

RESERVED ON : 16.09.2026

PRONOUNCED ON : 23.09.2026.

JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. Being aggrieved by judgment and order dated 31.03.2022 passed by learned Minister quashing the orders passed by Commissioner and Collector and restoring common order dated 03.04.2017 passed by Sub Divisional Officer in Appeal No.65 of 2016 62 of 2016, petitioners, original opponents, have preferred this writ petition under Article 227 of the Constitution of India.

3. The controversy pertains to land Gut No.374 situated at Mouje Khandal, Taluka Gadhinglaj, District Kolhapur originally owned by Krushna Bhat and Appa Bhat. One Dharma Lingappa Jadhav was tenant in the suit land, in whose favour order was passed under Section 32(G) of the Bombay Tenancy Agricultural Land Act (hereinafter referred to as "B.T.L. Act"). He had paid the amount and secured certificate under Section

32(M) on 13.02.1969. The petitioner Nos.1 and 2 claimed to be purchaser of the suit land and the mutation entry No.3421 was recorded in their name by order dated 08.03.2016. Being aggrieved by the order passed by Tahsildar appeals were preferred by respondent No.1 before SDO emanating from common orders dated 03.04.2017, the matter reached learned Minister in revision and the common order of the SDO is upheld.

4. Learned counsel for the petitioners Mr. Chetan Patil submits that learned Minister being Revisional Authority had no jurisdiction to determine ownership of the suit land and to hold that sale deed is bad in law for want of previous sanction under Section 43 of the B.T.L. Act. It is further submitted that petitioner Nos.1 and 2 purchased the suit land by registered sale deed on 29.07.1983 which has not been challenged so far. Any challenge to the sale deed would be barred by time. It is further submitted that petitioners were armed with the decree passed in Regular Civil Suit No.110 of 1984 which is confirmed upto Supreme Court, upholding the rights of the petitioners. Besides that RCS.No.31 of 1993 filed by respondent No.1 Laxman was dismissed. Thus, in the absence of any challenge

to the title of the petitioners, it is impermissible to doubt the sale transaction and resort to action under Section 84 (C) of the Act. Impugned order is stated to be perverse and patently illegal.

5. Per contra, the learned counsel for respondent No.1 Mr. Tejpal Ingale would submit that the title of the petitioners was not under consideration in RCS.No.110 of 1984. The possession of the party was the predominant consideration for granting relief of injunction. In the absence of permission, sale of land on 29.07.1983 is invalid as per Section 43 of the Act. It is further submitted that the common order passed by SDO on 03.04.2017 is rightly upheld in the impugned judgment. It is vehemently submitted that learned Minister has not decided any issue of title and he is empowered to consider Section 43 and 84(C) of the Act.

6. I have considered rival submissions of the parties. I have gone through the orders passed by the Revenue Authorities as well as judgment passed by the Courts in RCS.No.110 of 1984. Following are the relevant dates and events.

Sr. No.	Date	Event
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1. 13.02.1969 Dharma Jadhav was issued certificate under Section 32(M).
2. 17.10.1971 Dharma adopted petitioner No.3 Prakash by a deed.
3. 24.02.1972 Dharma executed agreement to sell to Satlingappa.
4. 01.09.1977 Respondent No.1 Laxman was bequeathed the suit land by Will executed by Dharma.
5. 29.07.1983 Petitioner No.3 Prakash executed sale deed to petitioner No.1.
6. 08.03.2016 Mutation entry No.3421 was recorded in the name of petitioner Nos.1 and 2.
7. 03.04.2017 Common order of SDO quashing mutation entry and directing action under Section 84 (C).
8. 07.04.2018 Order of Collector allowing Appeal No.184 of 2017 and restoring mutation entry.
9. 21.12.2018 Order of Commissioner dismissing the revision.
10. 31.03.2022 Impugned order of learned Minister allowing revision.

7. Petitioner No.1 had filed RCS.No.110 of 1984 for injunction, which was decreed on 19.06.1996. Being aggrieved, RCS.No.79 of 1998 was preferred, which was dismissed on 04.04.2000. Being aggrieved, respondent No.1 preferred Second Appeal No.201 of 2002, which was dismissed on 25.07.2015. Review preferred against it was also rejected. His SLP No.26868 of 2015 was dismissed on 24.09.2015.

8. Respondent No.1 had filed RCS.No.31 of 1993 for

declaration. It was dismissed for default on 24.02.1999. It was sought to be restored and separate application was filed for condonation of delay of about two years and six months. The application for condonation of delay bearing CMA.No.105 of 2001 was rejected on 14.09.2018. Thus, the suit preferred by respondent No.1 remained dismissed for default.

9. One Dharma Jadhav was the tenant who was armed with certificate issued under Section 32(M) dated 13.02.1969. He is the tenant purchaser which is not disputed by both the sides. Petitioner No.3 was being adopted by him on 17.10.1971. The adoption has not been challenged by respondent No.1. In pursuance of agreement to sell dated 24.04.1972, registered sale deed was executed on 29.07.1983 by petitioner No.3 Prakash in favour of petitioner No.1 which is also not subjected to any challenge. Pertinently RCS.No. 31 of 1993 lodged by respondent No.1 was dismissed for default and it was not restored. Petitioner No.1 claims title and possession vide sale deed dated 29.07.1983 and on that strength she succeeded in RCS.No.110 of 1984, which is confirmed upto Supreme Court.

10. The mutation entry No.3421 has been recorded on the basis of registered sale deed. The possession of petitioner No.1 is endorsed by all Courts in hierarchy. Thus, there is strong prima facie case to show title of the petitioner.

11. No permission was secured by petitioner No.1 by the competent authority before purchasing the land. The transaction is hit by Section 43 of the Act. But there is no declaration of the competent civil Court or the Revenue Authority to that effect. The respondent No.1 had opportunity to challenge the sale deed or to diligently prosecute RCS.No. 31 of 1993, which was dismissed for default. Now any challenge to the sale deed would be barred by time. Unless competent Authority and Court declares that sale deed dated 29.07.1983 is void, the petitioners cannot be deprived of its benefits. Prima facie title vests with the petitioners and she is in possession since agreement to sell dated 24.04.1972. There is total inaction on the part of respondent No.1, which is overlooked by learned Minister. It is recorded that for want of permission the transaction is void as per Section 43 of the Act. The findings regarding title of the petitioners is without jurisdiction.

12. The Revenue Forums do not have jurisdiction to determine title of the party, albeit, they can examine right, title or interest for the purpose of mutating of rights in revenue record. The power is summary in nature. Unless there is adjudication of the competent Court or the Authority on the substantive rights of the parties, the Revenue Authorities cannot usurp the jurisdiction for deciding title. I find substance in the submission of learned advocate Mr. Chetan Patil and therefore, impugned judgment is unsustainable.

13. It is vehemently contended by Mr. Ingle that the decisions emanating from RCS.No.110 of 1984 pertains to factum of possession only and issue of title was not germane. All the Courts in hierarchy upheld decree of perpetual injunction passed in favour of the petitioners, as the possession was found to be lawfully accrued. Respondent No.1 could have promptly adopted the proceedings to challenge the sale deed. In the absence of any challenge to the sale deed, there is no alternative left to hold that the petitioners are entitled to have their names recorded in mutation entry No.3421.

14. Learned counsel for the petitioners has relied upon the

judgment of *Mohd. Vs. Fatimabai*, to buttress that action under Section 84(C) of the Act is barred by time and it cannot be undertaken beyond the reasonable time. I have gone through the judgment which supports the petitioners.

15. Further reliance is placed on the judgment of Shrikant Vs. Krushna. The observations recorded in paragraph No.15 corroborates the claim of the petitioners.

16. For the reasons stated herein above, I pass following order :

ORDER

- (i) Rule is made absolute in terms of prayer Clause "A".
- (ii) The mutation entry No.3421, judgment and order dated 21.12.2018 passed by the Additional Commissioner and judgment and order dated 07.04.2018 passed by the Additional Collector are upheld.
- (iii) There shall be no order as to costs.

(SHAILESH P. BRAHME, J.)

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