

JYOTI
RAJESH
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 738 OF 2026
WITH
INTERIM APPLICATION NO. 5687 OF 2026
IN
APPEAL FROM ORDER NO. 738 OF 2026

1. Mr. Vishnu Tukaram Gaikar,
Aged about 61 years, Occ: Retd.
R/at House No. 1189, Koliwada,
Thane-Belapur Road, Opp. Hanuman
Temple, Ghansoli Village, Navi
Mumbai, Tal & Dist-Thane-400701

2. Mr. Ajit Shankar Gaikar, Aged about
42 years, Occ: Service R/at House No.
1189, Koliwada, Thane-Belapur Road,
Opp. Hanuman Temple, Ghansoli
Village, Navi Mumbai, Tal & Dist-
Thane-400701

3. Smt. Anita Yogesh Shinde, Aged
about 38 years, Occ: House Wife Rat
Khalapur Peth, Chowk, Manivali,
District Raigad-410202

4. Smt. Kamini Jagdish Gaikar, Aged
about 47years, Occ: House Wife R/at
House No. 1189, Koliwada, Thane
Belapur Road, Opp. Hanuman Temple
Ghansoli Village, Navi Mumbai, Tal
& Dist-Thane-400701

5. Mr. Prathamesh Jagdish Gaikar,
Aged about 28 years, Occ: Service R/at
House No.1189, Koliwada, Thane-
Belapur Road, Opp. Hanuman Temple
Ghansoli Village, Navi Mumbai, Tul
& Dist-Thane-400701

6. Mr. Prem Jagdish Gaikar,
Aged about 22 years, Occ: Not Known
R/at House No.1189, Koliwada, Thane
Belapur Road, Opp. Hanuman Temple,

Ghansoli Village, Navi Mumbai, Tal
& Disi-Thane-400701

7. Mr. Vasant Ganpat Raut,
Aged about 57 years, Occ: Service R/at
Mukkam Post Mangrul, Tal-
Ambernath Dist-Thane-421301

8. Mr. Ganesh Ganpat Raut,
Aged about 48 years, Occ: Business
R/at Mukkam Post Mangrul, Tal-
Ambernath Dist-Thane-421301

9. Mr. Janardan Ganpat Raut,
Aged about 44 years, Occ: Business
R/at Mukkam Post Mangrul, Tal-
Ambernath Dist-Thane-421301

10. Smt. Anita Gautam Shinde
@Gulab Ganpat Shinde,
Aged about 52 years, Occ. House Wife
R/at-Post-Bhadwal, Tal-Karjat,
Dist-Raigad-410201

11. Smt. Prabhavati Prabhakar Salunkhe
@Rakhmalai Ganpat Raut Aged
about 61 years, Occu House Wife
R/at Post-Vashivali, Tal-Khalapur,
Dist-Raigad -410202

12. Smt. Shoba Anil Magar
@Shoba Ganpat Raut. Aged about
55 years, Occ: House Wife R/at Post-
Bhakaricha Pada, Sugve. Tal-Karjat.
Din-Raigad-410201

13. Smt. Bebi Janardhan Kshirsagar
@Bebi Ganpat Raut Aged about
55 years, Occ: House Wife R/at Post-
Pimpoli- Sugven, Tal-Karjat Disrt-
Raigad-410201

14. Smt. Tai Vivek Sonawane @Tai
Ganpat Raut, Aged about 40 years,
Occ:- House Wife R/at-Aagashi Post-

Mhasa, Tal- Murbad, Dist- Thane
421401

15.Smt. Bebibai Prakash Kshirsagar,
Aged about 67 years, Occ: House Wife
R/at House No.. 1190, Patil Aali, Near
Ganpat Tempal, Ghansoli, Navi
Mumbai, Tal & Dist-Thane-400701

16.Mr. Shankar Vasant Patil,
Aged about 57 years, Occ: Unknown
R/at House No. 494, Room No. 1945,
Near Marathi School, Ghansoli, Navi
Mumbai-Dist- Thane 400701

17.Mr. Ramakant Vasant Patil,
Aged about 54 years, Occ: Unknown
R/at House No. 872, Vasant Niwas,
Near Bhavali Temple, Kaul Anali,
Ghansoli Navi Mumbai, Tal & Dist-
Thane -400701

18.Mr. Dilip Vasant Patil,
Aged about 52 years, Occ: Unknown
R/at House No. 872, Vasant Niwas,
Near Bhavali Temple, Kaul Aali,
Ghansoll Navi Mumbai, Tal & Dist.-
Thane -400701

19.Smt. Sangita Murlidhar Patil
@Sangita Liladhar Patil,
Aged about 51 years, Occ: House
R/at- Room No. 884, Village Turbhe,
Navi Mumbai-Tal & Dist-
Thane-400703

20.Smt. Anusaya Dattatray Mhatre,
Aged about 48 years, Occ: House Wife
R/at-Room No. 884, Village Turbhe,
Navi Mumbai -Tal & Dist-Thane-
400703

21.Mr. Rajesh Manik Patil,
Aged about 49 years, Occ: Retd. R/at
House No. 350, Joshi Aali, Near
Durga Mata Temple, Sector-19,

Koparkhairane, Navi Mumbai, Tal &
Dist-Thane-400709

22.Smt. Hausa Ganesh Mhatre, Aged about 59 years, Occ: House Wife
R/at House No. 2266, Ganesh Mhatre Chawl, Joshi Aali, Near Durga Mata
Temple, Sector-19, Koparkhairane, Navi Mumbai, Tal & Dist-Thane
400700

23.Smt. Lilavati Shridhar Patil, Aged about 64 years,
Occ: House Wife R/at 460, Nerul-Village, Near Namdeo
Bhagat School, Sector-20, Nerul, Navi Mumbai,
Tal & Dist- Thane-40070

24.Smt. Diksha Rupesh Patil
Aged about 30 years, R/at-Room No.
308, Jai Malhar Apt., Joshi Wadi,
Sector-20 Airoli village, Navi
Mumbai, Tal & Dist. Thane -400708

25. Shri Parshuram Manik Patil,
Aged about 55 years, Occ: Service
House No. 350, Joshi Aali, Near
Durga Mata Temple, Sector-19,
Koparkhairane, Navi Mumbai, Tal &
Dist-Thane-400709

26.Smt. Pushpa Rupchand Patil,
Aged about 57 years, Occ: House Wife
R/at-House No. 2149, Mhatre Aali,
Near Marathi School, Ghansoli, Navi
Mumbai, Tal & Dist-Thane-400701

27.Smt. Reshma Sachin Naik,
Aged about 40 years, Occ: House Wife
R/at-House No. 1403, Mhatre Aali,
Balaram Wadi, Ghansoli, Navi
Mumbai, Tal & Dist-Thane-400701

28.Sau. Rasika Jitendra Sutar,
Aged about 39 years, Occ: Service
R/at-House No. 198/199, Vshi Gaon,
Sector-31, Vashi, Navi Mumbai,
Tal & Dist-Thane-400701

29.Smt. Ranjita Nitin Mhatre,
Aged about 36 years, Occ: Service
R/at-Room No. 284, West Navi Nagar
Geeta Nagar, Colaba, Mumbai- 400005

30.Mr. Kiran Rupchand Patil
Aged about 35 years, Occ: Business
R/atHouse No. 2149, Mhatre Aali,
Near Marathi School, Ghansoli, Navi
Mumbai-Dist- Thane 400701

...Appellants/Applicants
/Original Plaintiffs

Versus

1. The Special Land Acquisition
Officer, Metro Centro No.3
Collector Office, 3rd Floor,
Dist. Thane.

2. Managing Director, CIDCO)
Lad, CIDO Bhavan, Or. Floor, CBD Belapur,
Navi Mumbai- 400 614.

3. State of Maharashtra, Through
Collector of Thane, Court Naka,
Thane (W)-400 601.

4. Smt. Pallavi Prafulla Adurkar,
Aged about years, Occ:
Unknown R/at 185 B, New
Mangelwadi, Veer Savarkar
Road, Mahim, Mumbai-400 016.

5. Shri. Vaibhav Prafulla Adurkar,
Aged about years, Oce:
Unknown R/at 185 B, New
Mangelwadi, [Veer Savarkar Road, Mahim, Mumbai-400016](#).

6. Miss. Deepali Prafulla Adurkar,
Aged about years, Occ:
Unknown R/at 185 B, New
Mangelwadi, Veer Savarkar
Road, Mahim, Mumbai-400016.

7. Miss. Gayatri Satish Anh Aged
about 39 years, Occ: Unknown
R/at 185 B, New Mandal Veer
Savarkar Road, Mal Mumbai-400 016

8. Mr. Rahul Bhalchandra Vaidya,
Aged about years, Occ:

Unknown R/at-Ghansoli, Navi

Mumbai, Tal & Dist-Thane-400701

9. Miss. Shruti Bhalchandra
Vaidya. Aged about years, Occ:
Unknown R/at-Ghansoli, Navi
Mumbai, Tal & Dist-Thane- 400701

10. Smt. Vandana Chandrakant
Adurkar Aged about years, Occ:
Unknown R/at-House No. 857, Kaul Aali,
Ghansoli, Near Khandoba Mandir,
Navi Mumbai-400701

11. Mr. Devandra Chandrakant
Adurkar Aged about 41 years,
Occ: R/at-House No. 857,
Kaul Aali, Ghansoll, Near Khandoba Mandir,
Navi Mumbai-400701

12. Mr. Ravindra Chandrakant
Adurkar, Aged about 46 years,
Occ: Unknown R/at-House No. 222,
Kaul Chawl. Near Khandoba Mandir,
Ghansoli, Navi Mumbai-400701

13. Smt. Darshana Chandrakant Adurkar
Aged about 39 years,
Occ: Unknown R/at-House No. 850,
Kaul Aali. Near Khandoba Mandir,
Navi Mumbai-400701

14. Smt. Smita Suresh Bavdekar,
Aged about 51 years, Occ: Unknown
R/at-Ghansoli, Navi Mumbai,
Tal & Dist-Thane- 400701

15. Smt. Nalini Manohar Mhatre,
Aged about 59 years, Oce:
Unknown R/at-Ghansoli, Navi
Mumbai, Tal & Dist-Thane-400701

16. Smt. Nutan Nandkumar Potdar,
Aged about 61 years, Occ: Unknown
R/at-Ghansoli, Navi Mumbai, Tal & Dist-Thane- 400701

17. Smt. Chaouthihai Hareshwar
Patil, Aged about 77 years, Occ:Unknown
R/at-House No. 221, Kaul Aali. Near Khandoba
Mandir, Ghansoli, Navi Mumbai,
Tal & Dist-Thane-400701

18. Mr. Suresh Hareshwar Patil,
Aged about 69 years, Occ:
Unknown R/at-House No. 221,
Kaul Aali. Near Khandoba Mandir, Ghansoli,
Navi Mumbai, Tal & Dist-Thane-400701

19. Mr. Datta Hareshwar Patil,
Aged about 57 years, Occ:Unknown
R/at-House No. 871, Kaul Aali.
Near Khandoba Mandir, Ghansoli, Navi Mumbai,
Tal & Dist-Thane-400701

20. Mr. Baliram Hareshwar Patil,
Aged about years, Ocu:Unknown
R/at-House No. 871,
Kaul Aali Near Khandoba Mandir,
Ghansoly, Navi Mumbai, Tal & Dist-Thane-400701

21. Smt. Vithabai Jagan Joshi
Aged about yours, Doot R/st-House
No. 01227009, Her Yadav
Chewl, Datta Mandir, Ghansoll.
Navi Mumbal, Tal & Ses Thane-400701

22. Smt. Vasanti Mad Aged about
Yes C R/st-Near Durga Village
Koparkhained, H Tal & Dist-Thane

23. Mr. Tukaram Krishna Patil,
Aged about years, Occ:
Unknown. R/at-Opp Prashant
Yashawant patil Bungalow,
Mahaseshwar Nagar, Near
Gunali Talav, Ghansoli, Navi
Mumbai, Tal & Dist-Thane- 400701

24. Smt. Meena Somnath Patil,
Aged about years, Occ: Unknown
R/at House No. 54,

opp. Municipality School,
Sanapada, Sector-5, Navi Mumbai,
Dist Thane-400705

25. Miss. Darshan Sonnath Patil,
Occ: Aged about years, Unknown R/at House No. 54,
opp. Municipality School Sanapada, Sector-5,
Navi Mumbai, Dist Thane -400705

26. Smt. Janabai Naresh Patil, Aged
about 57years, Occ: Unknown
R/at- Opp. Narayan Smruti
Bungalow, Shankar Buva Wadi,
Ghansoli, Navi Mumbai, Tal &
Dist-Thane-400701

27. Jayashree Sachin Karekar Aged
about..... years, Occ: Unknown
R/at-sai Nagar, Shivaji Chowk,
Near Hanuma Temple, Khatik
Gali, Karjat, Dist- Raigad- 410201

28. Smt. Aruna Lahu Patil Aged about..... years,
Occ. Unknown R/at-House No. 243, Near
Gavdevi Mandir, Village
Naigaon Post Dahisar, Dist-Thane-400612

...Respondents/Original Defendants

Mr. Y.S.Jahagirdar, Senior Advocate, a/w. Mr. Shailesh Kanetkar a/w. Ms. Ketki
Gadkari a/w. Niharika Chandurkar a/w. Mr. Yogesh Pednekar, for Appellants/
Applicants.

Dr. Birendra Saraf, Senior Advocate a/w. Mr. Aseem Naphade a/w. Ms. Dipanjali
i/b. Swati Sawant & Ms. Darshi Patel, for Respondent Nos. 4 to 16.

CORAM: AARTI SATHE, J.

DATE: 24 AUGUST 2026

ORAL JUDGMENT:

1. This Appeal from Order, filed under Order XLIII Rule 1(r) read with Section 104 of the Code of Civil Procedure, 1908, ('CPC') takes exception to the order dated 26th February 2026 passed by the learned Second Joint Civil Judge, Senior Division, Belapur ("Trial Court") in Suit No. 237 of 2025 (hereinafter referred to as "impugned order").

2. The Appellants challenge the impugned order passed below Exhibit-5, whereby the Trial Court, inter alia, refused to grant temporary injunction restraining Respondent Nos. 4 to 16 from creating any third-party interest in the suit property and from taking any further steps towards development of the suit property, including obtaining plan approvals and commencement certificate, and accepting bookings from members of the general public in respect of the suit property, being Plot No. 20D, Sector 10A, Airoli, Navi Mumbai (hereinafter referred to as 'suit property'), pending final disposal of the suit.

3. Briefly the facts are as follows:

i. The names of Tukaram Ramji Gaikar and Mr. Katri Shimaga Patil were recorded in the 7/12 extracts pursuant to Mutation Entry No. 681 effected on 30th August 1950. The said mutation entry recorded the names of the predecessors-in-title of the Appellants as protected tenants.

ii. As on 1st April 1957, i.e. the Tillers' Day, Tukaram Ramji Gaikar and Mr. Katri Shimaga Patil were cultivating the subject suit property. It is the contention of

the Appellants that, in the year 1962, the landlord, Mr. Savarnaprabha Dattatraya Adurkar, predecessor-in-title of Respondent Nos. 4 to 16, applied to the Tahsildar, Thane, seeking deletion of the names of the predecessors-in-title of the Appellants. Pursuant thereto, Mutation Entry No. 1201 was effected on 24 April 1962, whereby the names of the predecessors-in-title of the Appellants were deleted.

iii. Sometime in the years 1967 and 1970, Tukaram Ramaji Gaikar and Mr. Katri Shimaga Patil passed away respectively. In the year 1970, Respondent No. 1, being the Land Acquisition Officer, initiated land acquisition proceedings in respect of the suit property under the provisions of the Land Acquisition Act, 1894 (the "Act of 1894").

iv. On 1st September 1986, the Special Land Acquisition Officer (SLAO) passed an award of even date acquiring the aforesaid suit property. It is the contention of the Appellants that, since the names of their predecessors-in-title were not reflected in the revenue records in respect of the suit property no notice of the acquisition proceedings was issued to the Appellants prior to the said acquisition.

v. Consequent to the aforesaid award, Mutation Entry No. 1282 was effected, recording the name of CIDCO in respect of the suit property.

In the year 1996, the Appellants preferred an Appeal before the learned Sub-Divisional Officer (SDO), Thane, challenging Mutation Entry No. 1201. The said proceedings were renumbered as Revision Application No. 23 of 1996.

- vi. On 20th December 2001, the learned SDO passed an order of even date allowing Revision Application No. 23 of 1996 preferred by the Appellants.
- vii. In the year 2002, on the basis of the aforesaid order dated 20th December 2001, the Appellants initiated Case No. 28 of 2002 under Section 32G of the Maharashtra Tenancy and Agricultural Lands Act, 1948 ("MTAL Act"), claiming to be protected tenants in respect of the suit property as on 1st April 1957.
- viii. On 2nd August 2002, an order came to be passed under Section 32G of the MTAL Act, disposing of the application preferred by the Appellants in Case No. 28 of 2002, on the basis of the SDO's order dated 20th December 2001.
- ix. On 6th September 2002, a certificate under Section 32M of the MTAL Act was issued, recording payment of the purchase price by the Appellants, pursuant to the order passed under Section 32G of the MTAL Act. On 29th December 2002, Mutation Entry No. 2473 was effected, recording the names of the Appellants as owners of the suit property.
- x. In the year 2002, Respondent Nos. 4 to 16 preferred Appeal No. 25 of 2002 challenging the order dated 29th December 2002 and Mutation Entry No. 2473. By an order dated 17th December 2003, the said Appeal preferred by Respondent Nos. 4 to 16 came to be rejected. Thereafter, Respondent Nos. 4 to 16 preferred Revision Application No. 482 of 2004.
- xi. Pursuant to the aforesaid Revision Application No. 482 of 2004, the learned Additional Commissioner, Konkan Division, passed an order dated 27th May 2005 allowing the Revision Application preferred by Respondent Nos. 4 to 16 and thereby confirming the mutation entry in favour of Respondent Nos. 4 to 16.

16.

xii. In the year 2005, the Appellants preferred Review Application No. 310 of 2005, challenging the order dated 27th May 2005 passed by the learned Additional Commissioner, Konkan Division, and seeking review of the said order.

xiii. On the aforesaid Review Application No. 310 of 2005, an order dated 14th December 2005 came to be passed, whereby the said Review Application was dismissed.

xiv. In the meantime, Respondent Nos. 4 to 16 preferred Tenancy Appeal No. 16 of 2005, challenging the order passed under Section 32G of the MTAL Act in favour of the Appellants. The said Appeal came to be dismissed by the learned Tahsildar on 24th February 2006.

xv. Writ Petition No. 2547 of 2006 was filed in this court by the Appellants challenging the order dated 27th May 2005 passed by the learned Additional Commissioner, Konkan Division.

On 07th February 2023, an order came to be passed in Revision Application No. 16 of 2020, whereby the Revision Application preferred by Respondent Nos. 4 to 16 came to be dismissed on the ground of delay. The said order dismissing Revision Application No. 16 of 2020 was challenged by Respondent Nos. 4 to 16 by filing Writ Petition No. 10280 of 2023 before this Court.

xvi. By an order dated 14th July 2025 passed by a co-ordinate bench of this Court, Writ Petition No. 2547 of 2006 filed by the Appellants and Writ Petition No. 10280 of 2023 filed by Respondent Nos. 4 to 16 came to be disposed off.

xvii. By the said order, Writ Petition No. 2547 of 2006 preferred by the Appellants came to be dismissed. This Court held that the proceedings under Section 32G of the MTAL Act emanated from the order dated 20th December 2001, which was the subject matter of Writ Petition No. 2547 of 2006. Consequently, upon dismissal of the said Writ Petition, all subsequent steps and proceedings undertaken by the predecessors-in-interest of the Appellants under Section 32G of the MTAL Act stood vitiated and were rendered non-est. This Court further directed that Mutation Entry Nos. 2473, 2474 and 2575 be deleted and directed CIDCO to hand over the suit property together with all benefits arising therefrom, to Respondent Nos. 4 to 16 within a period of four weeks. This Court further observed that, if any aggrieved party desired to approach the Civil Court for instituting such suit proceedings as may be available in law for claiming entitlement, it would be open to such party to do so. The contentions of the parties were expressly kept open to be urged before the appropriate forum in accordance with law.

xviii. On 08th September 2025, the Appellants preferred Special Leave Petition (Civil) No. 23294 of 2020 before the Supreme Court. The said Special Leave Petition came to be dismissed by an order dated 8th September 2025 passed by the Supreme Court.

xix. Subsequently, on 20th November 2025, the Appellants instituted the aforesaid Suit, claiming ownership of the subject land on the basis of the certificates issued under Section 32M of the MTAL Act dated 06th September 2002 and seeking restoration of the mutation entries in their favour.

xx. On 26th December 2025, CIDCO executed an agreement in favour of Respondent Nos. 4 to 16, granting licence on land admeasuring 10,508 square metres. Subsequently, on 08th January 2026, the Appellants addressed a notice to CIDCO, bringing to its attention the pendency of the litigation and objecting to the aforesaid transfer/licence granted by CIDCO in favour of Respondent Nos. 4 to 16.

xxi. The Appellants filed application in Spl. C. S. No. 237 of 2025 under Order XXXIX Rule 2 of CPC for the reliefs as prayed for therein, and by way of the impugned order dated 26th February 2026, the aforesaid application came to be dismissed vide Exhibit-5 giving rise to the present Appeal from Order.

4. It is in the backdrop of the aforesaid chequered history that the present Appeal from order has been filed.

5. Learned counsel Mr. Y.S.Jahagirdar, Senior Advocate, with Mr. Shailesh Kanetkar with Ms. Ketki Gadkari with Niharika Chandurkar with Mr. Yogesh Pednekar, appeared on behalf of Appellants. Mr. Birendra Saraf, Senior Advocate with Mr. Aseem Naphade with Ms. Dipanjali instructed by Ms.Swati Sawant and Ms. Darshi Patel, appeared on behalf of Respondent Nos. 4 to 16.

6. Learned Senior Counsel Mr. Jahagirdar submitted that the impugned order has been passed without considering the entire conspectus of the litigation and in contravention of the settled principles governing applications under Order XXXIX Rule 2 of the CPC.

7. He submitted that the learned Trial Court erred in holding that, as on the date of the tillers' proceedings, the suit property was not under cultivation and,

therefore, the recording of the names of Tukaram Gaikar and Kathri Patil as protected tenants was doubtful. He submitted that the learned Trial Court, having observed that the question as to whether the aforesaid persons were protected tenants was required to be adjudicated at the time of trial, could not have drawn an adverse inference at the interlocutory stage.

8. Learned Senior Counsel further submitted that, having regard to the pendency of the proceedings and the disputed questions requiring adjudication at trial, the observation that the Appellants had approached the Court belatedly, and consequently that it would be premature to comment upon the aspect of limitation, was erroneous. He submitted that the findings recorded by the learned Trial Court in this regard are incorrect and unsustainable and, therefore, the impugned order is liable to be set aside. He further submitted that there was no delay in approaching the learned Trial Court, inasmuch as the Appellants approached the Court pursuant to the order passed by this Court dated 14th July 2025, whereby liberty was granted to the Appellants to take appropriate proceedings. He further submitted that the certificate granted under Section 32M of the MTAL Act conferred title and ownership upon the Appellants and constituted conclusive proof thereof under the provisions of the MTAL Act.

9. He further submitted that merely because this Court by order dated 14th July, 2025 had held that the proceedings under Section 32G of the MTAL Act were concluded against the Appellants, and consequently, that all subsequent steps and proceedings taken by the Appellants and their family members under Section 32G of the MTAL Act would stand vitiated and be treated as non-est, the same

could not be construed to mean that the mutation entries standing in favour of the Appellants, on the basis of which the certificates under Section 32M were granted, could be disregarded or ignored.

10. He further submitted that, at the time of acquisition of the suit property by the SLAO in the year 1986 under the Act of 1894, no notices were issued to the Appellants or any of their family members, thereby depriving them of the knowledge of the said acquisition. He submitted that, in the circumstances, there was no delay on the part of the Appellants in challenging Mutation Entry No. 1201, whereby the name of the Appellants were deleted, and thereafter Mutation Entry No. 1282, whereby the name of CIDCO came to be recorded in respect of the suit property.

11. He therefore submitted that the learned Trial Court had failed to appreciate that the Appellants had made out a prima facie case warranting grant of the injunction sought. He submitted that the refusal to grant the injunction has caused irreparable harm and prejudice to the Appellants, inasmuch as, without adjudication of their rights, which are pending consideration at trial, the Appellants, being the rightful owners of the suit property, remain unprotected.

12. He further submitted that the sanctity and legal effect of the certificate granted under Section 32M of the MTAL Act stands diluted by the view taken by the learned Trial Court as well as by this Court in its order dated 14 July 2025. According to him, such an approach defeats and adversely affects the claim of rightful ownership of the Appellants in respect of the suit property.

13. Per contra, learned Senior Advocate Dr. Birendra Saraf, on behalf of the Respondents, submitted that the order dated 14 July 2025 passed by this Court specifically holds that once the proceedings under Section 32G of the MTAL Act were held against the Appellants, all subsequent steps and proceedings undertaken under Section 32G of the MTAL Act would stand vitiated and be treated as non-est.

14. He therefore submitted that, the aforesaid position having been categorically laid down by this Court and affirmed by the Supreme Court by dismissal of Special Leave Petition (Civil) No. 23294 of 2020 by order dated 8th September 2025, the contention of the Appellants that the certificate issued under Section 32M of the MTAL Act conferred ownership upon the Appellants is an erroneous argument sought to be canvassed by Learned Counsel on behalf of the Appellants.

15. It was further submitted that, if the Appellants were aggrieved by the rejection of their claim under Section 32G of the MTAL Act, they had a remedy under Section 70 of the MTAL Act for determination of whether they were protected tenants, either in the past or at present. However, instead of availing of the remedy available under the MTAL Act, the Appellants chose to institute a civil suit, which was barred by limitation. He therefore submitted that the course of action adopted by the Appellants could not be said to be legally sustainable.

16. He further submitted that the reliefs as sought for in the suit, specifically in respect of the change of mutation entries could not lie in these civil proceedings, considering the provisions of Section 158 of the Maharashtra Land Revenue Code,

1966 (hereinafter referred to as the “MLRC”), which specifically bars institution of civil suits in respect of challenge to mutation entries. The relevant prayers in the suit and Section 158 of the MLRC are reproduced below :

Prayers in Suit No. 237 of 2025:-

a) it be declared that the Plaintiffs are the owners of the subject land as the Plaintiffs hold undisputed title through the certificate of purchase issued u/s. 32M of the MT&AL Act, 1948;

b) it be declared that the registration of certificate of purchase issued to the Plaintiffs u/s. 32M of MT&AL Act, 1948 is valid and binding upon the Defendants as the same was not challenged before the concerned authority and thus, attained finality;

c) it be declared that the Mutation Entries which were entered for the subject land in favour of the Defendants which are contrary to the title of the Plaintiffs be declared as illegal, null and void;

d) it be declared that the Plaintiffs being the heirs of the said Mr.Tukaram Ramji Gaikar and Mr. Katri Shimaga Patil (since deceased) are entitled to the entire compensation which was wrongly awarded by the Special Land Acquisition Officer i.e., Defendant No.1 to the Defendant Nos. 4 to 16;

e) it be declared that the Plaintiffs being the heirs of Mr.Tukaram Ramji Gaikar and Mr. Katri Shimaga Patil (since deceased) are entitled to the allotment of land/plot as per the 12.5% scheme framed by the Defendant No.2 i.e., CIDCO consequently the possession thereof;

f) It be declared that the Plaintiffs being the owners of the subject land the benefits of acquisition of subject land under 12.5% scheme accrue to the Plaintiffs and the allotment of suit plot i.e., Plot No:20D, Sector-10A, Airoli, Navi Mumbai, to the Defendants by the Defendant No.2 i.e., CIDCO is illegal, improper and therefore, the Defendant No.2 i.e., CIDCO has to initiate appropriate steps for cancellation of the same;

g) it be declared that the compensation amount of Rs.10,73,309.25/- in lieu of acquisition of subject land is ordered to be given to the Plaintiffs as the Plaintiffs are the owners of the subject land and thus they are entitled for the benefits of acquisition as per scheme;

h) it be declared that the Award No. 209A. Dated 01-09-1986 which was passed behind the back of the Plaintiffs in favour of the Defendants may be revoked and cancelled as the same undermined the ownership title of the Plaintiffs to the subject land and the suit plot.

i) The Hon'ble Court may be pleased to issue perpetual injunction to restrain the Defendant Nos.4 to 16, their servants, agents; officers, etc., from creating third party interest on the suit plot i.e., Plot No.20D, Sector-10A, Airoli, Navi Mumbai;

j) Pending the hearing and final disposal of this suit and injunction application, the Hon'ble Court may be pleased to grant an Ad-Interim Injunction in terms of clause(k) above.

Section 158 of the MLRC reads as follows:-

Section 158: No suit shall lie against the State Government or any officer of the State Government in respect of a claim to have an entry made in any record or register that is maintained under this Chapter or to have any entry omitted or amended.

17. He further submitted that it was only when the Appellants came to know about the 12.5% scheme of compensation being implemented by CIDCO in respect of the suit property that the Appellants sought to assert their alleged ownership rights in respect of the suit property, after a lapse of almost 33 years i.e in the year 1996, in as much as, mutation Entry No. 1201, whereby the name of the Appellants was deleted, had been effected in the year 1962. He therefore submitted that the claim sought to be raised by the Appellants was a clear afterthought and could not be entertained at this stage.

18. He also placed reliance upon the decision of ***Wander Ltd. Vs. Antox India (P) Ltd.***¹, in support of his submission that, while considering an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, the Appellate Court would not ordinarily interfere with the exercise of discretion by the Court of first instance or substitute its own discretion, except where such discretion has been exercised arbitrarily, capriciously or perversely, or where the Court has ignored the settled principles of law governing the grant or refusal of interlocutory injunctions.

19. Learned Senior Advocate Dr. Saraf submitted in the facts of the present case the trial Court had come to prima facie view that on the basis of the documents and

1 1990 Supp SCC 727

primarily considering the Judgment and order of this Court dated 14 July 2025, no right could be asserted by the Appellants under the provisions of Section 32M of the MTAL Act.

20. He submitted that a challenge to mutation entries cannot be entertained after an inordinate delay and that, where such a challenge is instituted belatedly, it ought to be accompanied by an application for condonation of delay setting out sufficient cause. Mere assertion of lack of knowledge or belated knowledge of an order, without explaining the failure to exercise due diligence, cannot constitute sufficient cause. Ignorance of an order for an unreasonably long period, in the absence of a cogent and credible explanation, cannot be condoned lightly.

21. Leaned counsel on behalf of Respondent Nos.4 to 16 further submitted that once an acquisition of the suit property had been made under the provisions of the Act of 1894 then the requisite procedure of issuing public notice and calling for public comment / objections prior to the acquisition would have been made under the provisions of section 4 and 6 of the Act of 1894. He submitted that in view thereof the contention as raised by the Appellants that they had no notice of the acquisition of the suit property would be an incorrect contention as sought to be raised by the Appellants and they were well aware of the aforesaid acquisition.

22. He therefore submitted that, having regard to the facts and circumstances of the present case, the impugned order passed by the learned Trial Court does not warrant any interference and ought to be sustained.

ANALYSIS AND FINDINGS

23. I have considered the rival submissions and perused the impugned order along with the relevant documents. At the outset, it would be beneficial to reproduce the findings recorded by this Court in its order dated 14 July 2025, wherein it has been categorically held that, once the proceedings under Section 32G of the MTAL Act are held to be invalid, any subsequent steps or proceedings taken in pursuance thereof would stand vitiated and be treated as non-est. The relevant findings of the order dated 14 July 2025 are reproduced below:

15. In view of the above categorical observations and findings, I do not find any infirmity with the order dated 27.05.2005 passed by the Additional Commissioner, Konkan Division, Mumbai in Revision Application No.482 of 2004 in favour of the Adurkar family and the same is upheld. Resultantly, Writ Petition No.2547 of 2006 fails.

16. In so far as challenge in Writ Petition No.10280 of 2023 to order dated 07.02.2023 passed by the MRT in the Application for condonation of delay in filing Appeal by Adurkar family for challenging the Section 32G order dated 02.08.2002 is concerned, it is seen that the said Section 32G proceedings clearly emanate from the order dated 20.12.2001 which is subject matter in Writ Petition No.2547 of 2006. That order and the order dated 17.12.2003, both having been set aside by the Additional Commissioner, Konkan Division, Mumbai and upheld by me in the present judgement, all subsequent steps and proceedings taken by the members of the Gaikar family under Section 32G of the MTAL. Act would stand vitiated and non est.

17. Writ Petition No.10280 of 2023 is disposed of in view of the above directions. Resultantly Mutation Entry Nos.2473, 2474 and 2475 are directed to be deleted.

18. CIDCO is directed to hand over the earmarked plot by them and any benefit in lieu of acquisition of the suit land to the members of the Adurkar family after compliances of all the necessary formalities within a period of four (4) weeks from today strictly in accordance with law.

19. All parties are directed to act on a server copy of this order downloaded from the High Court website.

20. All contentions of the parties are kept open. Needless to state that if any of the aggrieved party desires to approach the Civil Court with any suit proceedings as may be available to them for seeking entitlement, all contentions of the parties are expressly kept open as available to them in accordance with law.

21. With the above directions, Writ Petition No.2547 of 2006 and Writ Petition No.10280 of 2023 are disposed.

(emphasis supplied)

24. I am of the view that, in light of the aforesaid findings recorded by this Court in its order dated 14 July 2025, wherein it has been expressly held that the proceedings under Section 32G of the MTAL Act had failed insofar as the Appellants are concerned, the certificate issued under Section 32M of the MTAL Act cannot, by itself, confer any right upon the Appellants.

25. This is for the reason that the proceedings under Section 32G precede the issuance of a certificate under Section 32M. Section 32G contemplates determination of the purchase price of the land payable by the tenant. It is only upon completion of the said process, determination of the purchase price and payment thereof by the tenant entails a certificate being granted by the Tribunal under Section 32M in favour of the tenant/purchaser.

26. However, if the very tenancy claimed by the Appellants has been held to be invalid, and the order dated 20 December 2001 passed by the SDO, Thane, has been held to be a nullity in law and unsustainable, the assertion of the Appellants that they are the owners of the suit property cannot be accepted and deserves to be rejected at the threshold.

27. Though learned counsel appearing on behalf of the Appellants has vehemently submitted that there is no limitation prescribed for challenging mutation entries, the facts of the present case clearly demonstrate an inordinate delay of almost 33 years in challenging the aforesaid mutation entry. It is further

significant that it was only after allotment of the alternate land under the 12.5% scheme by CIDCO was sought to be made that the Appellants instituted Revision Applications challenging the mutation entries.

28. This conduct on the part of the Appellants clearly demonstrates that the claim sought to be raised is an afterthought. The Appellants, if at all they had any subsisting rights, remained silent and failed to assert the same for a period of more than 33 years.

29. I am also in agreement with the submission advanced by learned Senior Advocate Dr. Saraf on behalf of the Respondents that the challenge to the mutation entries cannot be entertained in the present proceedings, in view of the specific bar contained in Section 158 of the Code. The said provision clearly stipulates that no suit shall lie against the State Government or any officer of the State Government in respect of a claim to have an entry made in any record or register maintained under the said Chapter, or to have an entry omitted or amended. In view of the aforesaid statutory bar, the very maintainability of the suit insofar as it seeks to challenge the mutation entries is itself questionable. Consequently, entertaining the suit on the premise that the mutation entries could be directly challenged therein would amount to adopting an erroneous approach on the part of the Appellants.

30. I am also of the considered view that, prior to the acquisition of the suit property and passing of the award by the SLAO on 1st September 1986, notices under Sections 4 and 6 of the Land Acquisition Act, 1894, would necessarily have been issued, pursuant to which the aforesaid award came to be passed by the SLAO. Considering that issuance of such notices as contemplated under Sections 4

and 6 of the Land Acquisition Act, 1894, prior to the passing of the award, I am unable to accept the submission advanced by learned counsel for the Appellants that the Appellants had no notice or knowledge of the acquisition of the subject land or of the consequent changes in the mutation entries.

31. The conduct of the Appellants indicates that they sought to assert their alleged rights only after the CIDCO 12.5% scheme came to be implemented pursuant to the acquisition of the suit property . In other words, the Appellants appear to have sought to assert their alleged rights only after a considerable lapse of time and upon the implementation of the said scheme.

32. I am further of the view that the learned Trial Court has correctly applied the order passed by this Court on 14 July 2025 in holding that, once the proceedings under Section 32G of the MTAL Act themselves have been held against the Appellants, the certificate issued under Section 32M of the Act cannot, by itself, confer ownership upon the Appellants.

33. The learned Trial Court has also rightly observed that, on the relevant date, namely, the Tillers' Day, or prior thereto, the suit property was not under cultivation. In such circumstances, the recording of the names of Tukaram Gaikar and Katri Patil as protected tenants appears doubtful and the said issue would necessarily require adjudication at the stage of trial.

34. I am also of the view that, once this Court has arrived at the aforesaid conclusion in its order dated 14 July 2025, which has been affirmed by the Supreme Court in Special Leave Petition (Civil) No. 23294 of 2020 by order dated 8th September 2025, grant of an injunction against Respondent Nos. 4 to 16 would

cause irreparable harm and prejudice to them. Further CIDCO has also executed an agreement in favour of Respondent Nos 4 to 16, granting license in respect of land admeasuring 10,508 square meters i.e. suit property pursuant to the order dated 14th July,2025 passed by this Court. The learned Trial Court has, therefore, correctly applied the principles governing granting of injunction under order XXXIX, Rule 2 of CPC and come to a prima facie view that injunction cannot be granted against Respondent Nos. 4 to 16. The Trial Court has rightly held in the facts and circumstances of the present case, that the balance of convenience does not lie in favour of the Appellants.

35. The aforesaid view is also supported by the settled principles laid down in *Wander Ltd. v. Antox India (P) Ltd.* (supra), wherein it has been held that an Appellate Court ought not to interfere with the exercise of discretion by the Court of first instance or substitute its own discretion, except where such discretion has been exercised arbitrarily, capriciously or perversely, or where the Court has ignored the settled principles of law governing the grant or refusal of interlocutory injunctions. In the present case, I find no such perversity, arbitrariness or failure to apply the settled principles warranting interference with the discretion exercised by the learned Trial Court.

36. I am of the view that the learned Trial Court has correctly passed the impugned order and that no interference is warranted by this Court with the exercise of discretion by the learned Trial Court.

37. I am also of the view that the decisions relied upon by learned counsel for Respondent Nos. 4 to 16, to the effect that a challenge to a mutation entry, if

made after an inordinate delay, ought to be accompanied by an application for condonation of delay setting out sufficient cause, is squarely applicable to the facts of the present case. Further, the assertion made by the Appellants that they were not aware of the acquisition in the year 1986 and hence were unable to challenge the mutation entries earlier also needs to be rejected inasmuch as there is no explanation given by the Appellants explaining why due diligence was not exercised by them to find out about the acquisition. In the present case also, the challenge to the mutation entry has been raised after an inordinate delay of almost 33 years, without any cogent or satisfactory explanation for such delay or any application seeking condonation thereof. The relevant paragraphs of the following decisions to support the aforesaid propositions as advanced by learned counsel on behalf of Respondent Nos. 4 to 16 are reproduced below:

1) *Amol Govind Mhatre & Ors Vs. Sharda Ganpat Sawant*²

2) *B.M.E's Bhagyanwan Coop.Housing Society Ltd. V. District Superintendent of Land Record*³

3) *Balkrishna Sadashiv Thakur and others Vs. Prabhakar Sadashiv Thakur*⁴

Relevant paragraphs of the aforesaid decisions are reproduced below: -

Amol Govind Mhatre (supra): -

25. Therefore the decisions of the quasi judicial authorities in the present case clearly requires interference by this Court. It is settled position in law that Revenue authorities cannot decide title where disputed questions of facts are involved. Dispute in the present case prima facie emanates from gross delay and laches which is evident on the face of record which is glossed over by the quasi judicial authorities.

26. Reliance placed by the Developer, who has developed the entire Yogi Nagar layout since the year 1978 onwards, the Developer having obtained amalgamation

2 Writ Petition No. 5806 of 2022.

3 2025 SCC Online Bom 1208

4 2021(5) Mh.L.J. 669

and subdivision order and NA order with regard to the subject properties being included in the larger layout without either Ms. Sharda Ganpat Sawant taking any steps during her lifetime and Ms. Priya Prabhakar Rane also not taking any steps cannot justify passing of the concurrent impugned orders dated 31.12.2016, 30.03.2017 and 23.12.2019 which are the subject matter of challenge in Writ Petition No.5806 of 2022. These orders will therefore have to be interfered with by this Court.

27. Similarly on the above facts and in that view of the matter, the orders under challenge passed by the State in Writ Petition No.16623 of 2025 and Writ Petition No.16325 of 2025 will have to be upheld and confirmed.

28. It is seen that Ms. Priya Prabhakar Rane's attempt to interfere with the conveyance of the subject properties in favour of the respective Co-operative Housing Societies has been defeated by this Court vide order dated 24.01.2025 passed in Writ Petition No.1256 of 2025 (Coram: Sandeep V. Marne, J.) copy of which is appended at page No.346 of the Affidavit-in-Reply of Respondent No.2 in Writ Petition No.16623 of 2025. It is seen from order that this Court has clearly directed the said Ms. Priya Prabhakar Rane to file a Civil Suit to pursue her purported rights which has been subsequently filed in the month of July 2025.

29. In this regard, the ratio in the case of Seth Ganga Dhar Vs. Shankar Lal and Ors. clearly applies to the facts and proceedings of the present case.

30. Once Ms. Priya Prabhakar Rane is unable to show any material or evidence with regard to fructification of right in favour of Mr. Yeshwantrao Save with regard to the subject properties pursuant to the Mortgage Deed of the year 1938, her case cannot be accepted.

31. Next the decision in the case of Pandurang Maruti Dombale Vs. Bapurao Piraji Owai and Ors. and more specifically paragraph No.7 thereof, inter alia, reflecting the legal position of clause (c) of Section 58 of the Transfer of Property Act with regard to Mortgage by conditional sale once again clearly applies to the facts and circumstances of the present case. The scheme of clause (c) of Section 58 clearly indicates that the only remedy of a Mortgagee by conditional sale is to apply for foreclosure and not for a decree of sale. For ease of convenience, paragraph Nos.6, 7 and 8 of the said decision are reproduced below:-

"6. It is important to remember that mortgage is a transfer of interest in specific immovable property towards "security for repayment of a debt". The interest itself may be different in different forms of mortgage. In a simple mortgage, what is transferred is a power of sale, whilst in a usufructuary mortgage it is the right of the mortgagor to the enjoyment of the usufruct. In a mortgage by conditional sale or an English mortgage what is transferred is the right of ownership subject to a condition that on default of payment on a certain date the sale shall become absolute, or that on such payment being made the sale shall become void, or that on such payment being made the buyer shall transfer the property to the seller. Whatever be the form of mortgage, the transfer is of "some" interest only and not of the "whole" interest of the mortgagor. Unlike in the case of a sale in payment of a debt which extinguishes the debt, the debt always subsists in a mortgage. When a mortgagor mortgages his immovable property, he does not cease to be its owner; the equity of redemption still vests in him. This equity is lost unto him only when there is a final decree of foreclosure or sale in favour of the

mortgagee. This has always been our law and a mortgage by conditional sale is no exception to it.

7. The statutory provisions, which are reflected in Sections 58, 60 and 67 of the Transfer of Property Act and Order XXXIV of the Code of Civil Procedure make this position clear. Clause (a) of Section 58 of the Transfer of Property Act defines a mortgage as "transfer of an interest in specific immovable property for the purpose of securing the payment of money advanced or to be advanced by way of loan, an existing or future debt, or the performance of an engagement which may give rise to a pecuniary liability." Clause (c), which deals with mortgage by conditional sale, provides as follows:

" (c) Mortgage by conditional sale. ---- Where the mortgagor ostensibly sells the mortgaged property-

on a condition that on default of payment of the mortgage-money on a certain date the sale shall become absolute, or
on a condition that on such payment being made the sale shall become void, or

on a condition that on such payment being made the buyer shall transfer the property to the seller,
the transaction is called mortgage by conditional sale and the mortgagee, a mortgagee by conditional sale:

Provided that no such transaction shall be deemed to be a mortgage, unless the condition is embodied in the document which effects or purports to effect the sale."

Section 60 of the Transfer of Property Act provides for the mortgagor's right to redeem. At any time after the principal money has become due, the mortgagor has a right, on payment or tender of the mortgage money, at a proper time and place, to require the mortgagee to deliver to the mortgagor the mortgage-deed and all documents relating to the mortgaged property which are in possession or power of the mortgagee and at the cost of the mortgagor either to re-transfer the mortgaged property to him or to his nominee and to have registered an acknowledgement in writing that any right in derogation of his interest transferred to the mortgagee has been extinguished. Section 67 deals with the mortgagee's right to foreclosure or sale. In the absence of a contract to the contrary, the mortgagee has, at any time, after the mortgage-money has become due to him and "before a decree has been made for the redemption of the mortgaged property" or before the mortgage money has been paid or deposited as provided in Section 67, a right to obtain from the Court a decree that the mortgagor shall be absolutely debarred of his right to redeem the property or a decree that the property be sold. It is pertinent to note that the right to seek foreclosure is not available to any mortgagee other than a mortgagee by conditional sale or a mortgage under an anomalous mortgage by the terms of which he is entitled to foreclose. So also, the right to seek sale is not available to a usufructuary mortgagee or a mortgagee by conditional sale. What the scheme of this Section indicates is that the only remedy of a mortgagee by conditional sale is to apply for foreclosure and not for a decree of sale. Order XXXIV, Rule 2 of the Code of Civil Procedure proceeds for a preliminary decree in a foreclosure suit. By this preliminary decree, the Court orders an account to be taken of what is due to the plaintiff on the date of such decree towards principal, interest, costs, etc. and declares the amounts so due at that date and

directs that if the defendant pays into court the amounts so declared as due on or before such date as the court may fix within six months of the court confirming and countersigning the account, the plaintiff shall deliver up to the defendant, or to such person as the defendant may appoint, all documents relating to the mortgage of the property and re-transfer, if so required, the property to the defendant at his cost free from the mortgage (sub-rule (1) of Rule 2). Rule 3 of Order XXXIV provides for a final decree in a foreclosure suit. The rule provides that if, before a final decree debarring the defendant from all the right to redeem the mortgage has been passed, the defendant makes payment into the court of all amounts due to him under subrule (1) of Rule 2, the court shall, on application made by the defendant, pass a final decree ordering the plaintiff to deliver up the documents referred to the preliminary decree and, if necessary, to re-transfer the mortgaged property as directed in the decree. Only if such payment is not made by the defendant that the court shall, on the application of the plaintiff, pass a final decree declaring that the defendant and all persons claiming through or under him are debarred from all right to redeem the mortgaged property. This scheme makes it clear that at all events, and in case of all mortgages, where a foreclosure decree can be passed, the mortgagor retains his right of redemption until a final decree of foreclosure is passed. As the law stands, there cannot, thus, be any exception to the impugned judgment and order of the first Appellate Court.

8. Learned Counsel for the Appellant relied on the judgment of the Supreme Court in the case of Vanchalabai Raghunath Ithape vs. Shankarrao Baburao Bhilare, 2013 (6) Mh.L.J. (S.C.) 80 = 2013 (12) LJSOFT (SC) 500. In the case before the Supreme Court, the plaintiff had filed a suit claiming redemption and re-conveyance of the suit property after accepting the amount of mortgage money. The defendant contested the suit by contending that the transaction in question was not a mortgage but an outright sale. The court actually went through the terms and conditions in the document and came to a conclusion that the transaction in question was an absolute sale with an agreement of repurchase. The court held that for the purpose of bringing a transaction within the meaning of mortgage by conditional sale, the first condition was of an ostensible sale of the mortgaged property on a condition that the buyer shall transfer the property to the seller on payment of a certain sum. The Court held that though there was a presumption that the transaction was a mortgage by conditional sale when the whole transaction was contained in our document, merely because of a term incorporated in the same document, the transaction between the parties need not always be termed as a mortgage. In the particular case before it, the court found the document to be a document of absolute sale with a contract to repurchase rather than a mortgage by conditional sale. The plaintiff's suit, in the premises, was dismissed. This judgment has no bearing on the facts of our case, where the Plaintiff Appellant went to the Court with a specific case, as noted by me above, that the document executed was in the nature of mortgage by conditional sale."

32. Attention is also invited to paragraph Nos.17, 18 and 19 of the decision in the case of B.M.E.'s Bhagyawan Cooperative Housing Society Limited Vs. District

Supercontinent of Land Records and Ors. 8 , inter alia, with regard to delay and the twin orders which are the subject matter of Writ Petition Nos.16623 of 2025 and 16325 of 2025 with regard to the condonation of delay which has been allowed by the quasi judicial authorities and subsequently set aside by the State which is impugned in the said Petitions. It is seen that bare perusal of the delay condonation Application filed by Ms. Priya Prabhakar Rane before the DSLR would reveal that there is no proper justification for the delay despite she being well aware about massive development on the subject properties.

33. The DSLR condonation order does not consider the quantum and/or the reasoning for the delay but only allows condonation on the ground that the matter requires adjudication of merits. This approach of the quasi judicial authorities directing requirement of adjudication on merits involves interference with entitlement of the parties and is therefore entirely perverse and cannot be countenanced.

34. That apart, the issue of delay is more of a concern in the facts and circumstances of the present case. It is prima facie seen that the explanation offered for delay is a mere bald statement without any reasons or substantiation that the party was unaware of the impugned order which is not sufficient to constitute a 'sufficient cause' warranting condonation of delay, especially when the delay is so prolonged and is over more than 40 years. In that view of the matter, attention is invited to paragraph Nos.15 to 19 of the decision in the case of B.M.E.'s Bhagyawan Cooperative Housing Society Limited (Supra) which apply on all four squares to the facts of the present case. They are reproduced below:-

"15. In my considered opinion, the approach adopted by both the Authorities under the MLRC is contrary to the well-settled principles of law governing condonation of delay. It is trite law that mere assertion of lack of knowledge or belated knowledge of an order, without explaining why due diligence was not exercised in the intervening period, cannot, by itself, be treated as a sufficient cause. Ignorance of an order for an unreasonably long period, without cogent and credible explanation, cannot be condoned lightly. The authorities have failed to appreciate that "sufficient cause" must be shown for the entire period of delay, and that a liberal approach cannot be adopted so as to defeat the rights that have accrued to the opposite party on account of long passage of time.

16. Both the Authorities have condoned the delay merely by placing reliance on general principles, without scrutinizing whether the explanation furnished was bona fide, satisfactory, and covered the entire period of 11 years and 4 months. Such a casual and mechanical exercise of discretion cannot be sustained in law. The orders impugned, therefore, suffer from manifest arbitrariness and non-application of mind and are liable to be set aside.

17. Insofar as the cause furnished by the contesting respondents in the application for condonation of delay is concerned, it is evident that the only explanation offered is a mere bald statement that the contesting respondents were unaware of the impugned order. In law, a mere bald and unsubstantiated statement that the appellants were unaware of the impugned order, by itself, is not sufficient to constitute a "sufficient cause" warranting condonation of delay, particularly when the delay is of an inordinate magnitude spanning over 11 years. In proceedings seeking condonation of such prolonged delay, the appellants are required to

substantiate their case by placing on record credible and cogent material demonstrating the following factors:

- (i) The circumstances or context in which the impugned order came to be passed and the chain of events that led to its alleged discovery by the appellants;
- (ii) The due diligence undertaken by the appellants during the intervening period to safeguard their legal rights or interests;
- (iii) Efforts, if any, made by the appellants earlier to inquire into or ascertain their legal status, title, or rights affected by the impugned order;
- (iv) Absence of constructive or deemed knowledge, particularly in a case where the impugned order was of such a nature that it would ordinarily be expected to be communicated, published, or acted upon in a manner which would alert a reasonable person; and
- (v) Whether the impugned order resulted in any change of status, title, or right that would have been manifest, patent, or publicly known, and whether despite such changes, the appellants could plausibly have remained unaware.

18. The contesting respondents, however, have failed to furnish any such particulars, nor have they placed on record any material to demonstrate exercise of due diligence or absence of negligence.

19. When a person claims lack of knowledge of an order passed several years earlier, certain well-settled principles assume relevance. Firstly, mere assertion of lack of knowledge, without more, is insufficient. The person seeking condonation must place on record specific material to demonstrate (a) how and when knowledge was first acquired, (b) that no constructive or deemed knowledge existed earlier, and (c) that there was no negligence or inaction on their part in safeguarding their rights. Secondly, material evidence ought to be placed before the Court which may include affidavits or correspondence showing attempts at inquiry; contemporaneous documents explaining the reasons for delayed discovery; statements from similarly situated persons, if applicable; and any official record, communication, or response evidencing delayed receipt of information. Thirdly, if an order has been implemented or acted upon in a manner impacting the legal rights, title, or possession of the person concerned, it is presumed that the affected person would have constructive knowledge of the order, unless such presumption is rebutted by cogent and credible evidence.”

35. The contents of paragraph Nos. 17 and 19 herein above in the case of B.M.E’s Cooperative Housing Society Limited (supra) clearly apply to the facts and circumstances of the present case for upholding the orders passed by the State in Revision proceedings which is assailed in Writ Petition No. 16325 of 2025.

(emphasis supplied)

Balkrishna Sadashiv Thakur (supra):-

11. Apart from the issue on merits, petitioners have asserted that in the absence of any application seeking condonation of delay to maintain the challenge to mutation entry No.508, the entire proceedings was vitiated; it was incumbent upon respondents to file application seeking condonation of delay beyond the period of limitation as prescribed under Section 250 of the MLR Code as the prescribed

period of 60 days had lapsed more than three years ago. This admittedly having not been done by the respondents, the SDO could not have the jurisdiction to pass a decision on merits unless and until the delay was condoned.

12. From the above it can be deduced that admittedly there was a substantial delay on the part of respondents to file the application for setting aside mutation entry No.508 dated 17.10.2010. Further the statutory appeal before the SDO was admittedly not accompanied by application / plea for seeking condonation of delay in filing the said appeal. This being the admitted position, the SDO in the first instance did not get jurisdiction to consider the grievance of the respondents on merits without condoning the delay. Orders passed by the SDO and the appellate / revisional authorities thereafter are therefore nullity.

13. Petitioners have placed reliance on the decision of the learned Single Judge of this Court in the case of Pandharinath Rambhau Kavitke vs. Shaikh Hamaja Shaikh Husen 1 , in Writ Petition No. 3246 of 1987 decided on 20.07.2000, wherein a similar issue had arisen. In that case neither the Appellate Court nor the Tribunal had examined the question of delay although it was vehemently raised on behalf of the petitioner therein particularly when there was no formal application or formal order condoning the delay in filing the appeal. The learned Single Judge held that the Appellate Court acted without jurisdiction in deciding the appeal on merits without first condoning the delay; unless the delay was condoned, the Appellate Court had no jurisdiction to entertain the appeal in law. The relevant paragraph Nos.11 to 14 of the said judgment are extracted as under:

“11. The view which I have been taken has already been considered by different Benches of this Court. In the case of Narhar Shamrao Deshpande Vs Lakhu Raghu Dalvi, (Since deceased) through his heirs, Yeshwant Laxman and Anr. 2 , Justice R.D. Tulpule, as he then was, has dealt with similar contention and has rejected the same. In my view the said decision would squarely apply to the facts of the present case. In another decision in Madhavdas Damodardas Gujar and Ors. Vs Mahadu Kern Raut 3 , following the aforesaid decision of Justice Tulpule, this Court has reiterated the said legal position. Another decision of Justice R.M. Lodha reported in 1998 (4) All M.R. 419 has also held that the appeal filed against an order which is alleged to be null and void needs to be filed within limitation or at least sufficient cause should be shown for condoning the delay. There is one more decision of this Court which has considered this question and answered the same against the Respondent reported in 1999(3) Mh.L.J. 598 of Justice D.G. Deshpande. In view of the consistent view taken by this Court, it is not open for me to take a different view and particularly because of the decision of the Apex Court referred to above. In the present case we have already noticed that neither the Appellate Court nor the Tribunal has examined the question of delay although vehemently raised on behalf of the petitioner, particularly when there was no formal application or formal order condoning the delay in filing the appeal. In other words, the Appellate Court acted without jurisdiction in deciding the appeal on merits without jurisdiction in deciding the appeal on merits without first condoning the delay. Unless the delay was condoned, the Appellate Court had no jurisdiction to entertain the appeal in law.

12. For the aforesaid reasons, I am of the view that the Appellate Court clearly acted without jurisdiction in entertaining the appeal which was

barred by 20 years. That too, without condoning the delay in filing of the appeal. The learned Counsel for the Respondent during the course of argument submitted that since neither the Appellate Court nor the Tribunal has given any reason with regard to the preliminary objection on the point of limitation, it would be appropriate to remand the matter to the Lower Court to consider the same in accordance with law. In my view, such a course would cause manifest injustice to the Petitioner inasmuch as 32G proceedings has been concluded on 15.7.1963, on the basis that the Petitioner has become deemed purchaser on 14.1.1957; and yet the petitioner has been driven from one Court to another during all these period. It was, therefore, suggested to the learned Counsel for the Respondent that instead an affidavit of the Respondent be filed before this Court to explain the cause for delay of 20 years in filing of the appeal before the Assistant Collector. Pursuant to the said liberty, the Respondent has filed affidavit in this Court and the only the defence or explanation offered reads as under:-

"I say that I have repeatedly visited the office of the Tahsildar and Deputy Collector, in order to find out when proceedings under Section 88C will commence, but I could not get satisfactory reply from the office of the concerned authority. I therefore, after waiting for a considerable time filed Tenancy appeal. I say that the delay in filing the appeal was explained in the Appeal, however, the concerned authority has failed to make reference of it. However, my aforesaid explanation satisfied the concerned authority and that is why the appeal was entertained and allowed."
(Emphasis supplied)

13. This cannot be said to be an explanation at all, leave alone that it is satisfactory or would stand the test of sufficient cause for condoning the delay. In the circumstances. I have no option but to conclude that the appeal filed by the Respondent before the Assistant Collector was hopelessly time barred and ought to have been dismissed at the threshold by the Appellate Court. In other words, the Appellate Court has clearly acted without jurisdiction in addressing itself to the issues on merits, when it had no jurisdiction to entertain the appeal as presented by the Respondent. What is important to note is that pursuant to the order passed in Section 32G proceedings on 15.7.1963 the Petitioner not only paid purchase price but the authorities have also issued certificate in favour of the Petitioner under Section 32M coupled with the fact that mutation entries have been recorded in the village record as back as in the year 1966. For all these years till May, 1983 the Respondent did not think it proper to challenge the said decision. This would also mean that the Respondent had waived his right to challenge the said order by filing appeal within the prescribed time and was therefore disentitled for any indulgence. I have already observed that even on merits the stand taken by the Respondent is wholly untenable. In the circumstances the Appellate Court as well as the Tribunal were completely in error in accepting the stand taken by the Respondent. Accordingly the order passed by the Appellate Court as well as the Tribunal which is under challenge in this writ petition deserves to be quashed and set aside and the order passed by the Mamalatdar and A.L.T. Indapur dated 15.7.1963 in Section 32G proceedings is restored.

14. For the aforesaid reasons the writ petition is allowed with costs all throughout. Rule is made absolute. The order passed by the Assistant

Collector, Baramati Division, Baramati dated 28.2.1985 in TNC Appeal No. 36 of 1983 and the order passed by the M.R.T., Pune dated 12.8.1996 in Revision No. 7 of 1985 are quashed and set aside and instead the order passed by the Mamalatdar and A.L.T. Indapur dated 15.7.1963 is restored.”

14. Petitioners have also referred to another decision of the learned Single Judge of this Court in the case of Sidappa Rama Patil vs. Sattur Laxman Kole and others 4 in Writ Petition No.2963 of 1982 decided on 23.06.2004, wherein it has been held that if the appeal in revenue proceedings is barred by limitation, the Appellate Court would assume jurisdiction only if delay in filing such appeal was condoned in the first place. In this case, the appeal was filed after more than 10 years and was not accompanied by any formal application for condonation of delay in filing the appeal nor such prayer was made in the memo of appeal. Further in the said case there was nothing on record to show that the Appellate Authority had condoned the delay in filing the said appeal before entertaining the same on merits. The learned Single Judge, in view of the aforementioned questions held that the appeal in such a case was barred by limitation. The facts of this case are similar to the present case in hand.

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.

(emphasis supplied)

38. Considering the aforesaid facts and settled position in law, I am of the view that the impugned order has been passed after duly appreciating the facts and the applicable law. The view taken by the learned Trial Court is a plausible view and does not warrant any interference by this Court in appellate jurisdiction.

39. In view thereof, the Appeal from Order fails and is accordingly dismissed. The learned Trial Court is directed to dispose of the suit expeditiously.

40. There shall be no order as to costs.

41. In view of the dismissal of the Appeal from Order, the pending Interim

Applications do not survive and are accordingly disposed of.

(AARTI SATHE, J.)