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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

Letters Patent Appeal No. 022 of 2001
(Against the judgment dated 09.03.2001
in W.P. No. 4489 of 1996)

Udhav Uttam Patil,

Age : Major, Occ. Agriculture,

R/o. Talwe, Taluka Taloda,

District Dhule.

..APPELLANT

(Ori. Petitioner)

Versus

1. Daga Holkya Bhil,

Since deceased through L.Rs.

Sumanbai w/o Supdya Bhil,

Since deceased through L.Rs.

1A) Sumanbai W/o Supdya Bhil

Age : Major, Occu. Household,

R/o. Morwad, Taluka Taloda,

District Nandurbar, through L.Rs.

1A-1) Bhimsing Supdya Bhil(Padvi)

Age : Major, Occu. Household,

R/o. Morwad, Taluka Taloda,

District Nandurbar.

1A-2) Raju Supdya Bhil (Padvi)

Age : Major, Occu. Household,

R/o. Morwad, Tq. Taloda,

District. Nandurbar.

1A-3) Vasant Supdya Bhil(Padvi)

Age : Major, Occu. Household,

R/o. As above

1A-4)Phulibai w/o Kantilal thaker

Age Major, Occ. Household,

(2)

R/o. C/o Morwad, Taluka Taloda,
District Nandurbar.

2. The Additional Commissioner,
Nashik Division, Nashik.
3. The State of Maharashtra .. RESPONDENTS
(Ori. Respondents)

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Mr.S.P. Shah, Advocate, holding for
Mr. Girish Rane, Advocate, for the appellant.
Mr. Amey Sabnis, Advocate, holding for
Mr. N.L. Choudhari, Advocate, for respondent
Nos.1A-1 to 1A-4
Mr. A.B. Girase, Government Pleader, for
Respondent Nos. 02 and 03.

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WITH

Letters Patent Appeal No. 055 of 2001
(Against the judgment dated 09.03.2001 in
W.P. No. 1622 of 1997)

Chhagan Shankar Patel ... Appellant
Versus
The State of Maharashtra
& Others ... Respondents.

Mr. Jain, Advocate, holding for
Mr. R.B. Raghuwanshi, Advocate, for the appellant.
Mr.A.B. Girase, Government Pleader, for respondent
Nos. 01 to 03.
Mr.C.R.,Deshpande, Advocate, for respondent No.4(a)
Respondent No.4(b) Served.

WITH

Writ Petition No. 5076 OF 2001

1. Udhav Uttam Patil,

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Age : 48 Years, Occ. Agriculture,
R/o. Talwe, Taluka Taloda,
District Nandurbar.

2. Eknath Udhav Patil,
Age : Maj. Occ. Agriculture,
R/o. As above

VERSUS

1. Daga Halkya Bhil,
since deceased through L.Rs.
(a) Sumanbai w/o Supdya Bhil,
Age : Major, Occ. Household,
R/o. Morwad, Taluka Taloda,
District Nandurbar
2. Ramanlal Atmaram Wani,
Age : Major, Occ. Nil
R/o. Taloda Tq. Taloda
Dist. Nandurbar
3. Uttam Ramu Patil,
Age : Adult Occ. Nil
R/o. Taloda Taluka Taloda,
Dist. Nandurbar.
4. The Additional Commissioner,
Nashik, Division Nashik

Mr. S. P. Shaha, h/f Mr. Girish Rane, Advocate for applicant
Mr.A.G. Magare, Advocate for Respondent Nos.1A-1 to 1A-4
Mrs. R.P. Gour, Asst.Govt. Pleader for Respondent Nos.2 and 3

CORAM : S.V. GANGAPURWALA &
S.M. GAVHANE ,JJ.

DATE : 17th November, 2017.

PER COURT :-

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1. Mr. S.P. Shah, the learned counsel for the appellant submits that the Deputy Collector, Dhule, *suo-motu* took up the proceedings, under the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974 (for short "Act of 1974") and on 15th January, 1977, dropped respondents' case on the ground that the provisions of 1974 Act are not applicable. Thereafter, on 13th August, 1996, after about 20 years, the Additional Commissioner, Nashik issued notice for the proposed *suo-motu* revision of the Judgment and Order passed by the Dy. Collector.

2. The appellant here-in challenged the said notice by filing Writ Petition bearing No. 4489 of 1996. The learned Single Judge of this Court on 9th March, 2001, dismissed the Writ Petition. Present Letters Patent Appeal is filed against the said order.

3. In the present Letter Patents Appeal, this Court granted interim order. However, before communication of the order, the Commissioner decided the proceedings. in favour of the present respondents.

4. The present appellant challenged the said order in Writ Petition No. 5076 of 2001. The learned counsel for the

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appellant submits that the limitation period for the Commissioner to invoke *suo-motu* powers of revision under Section 7 of the Act, is three years and not 30 years, as held by the learned Single Judge.

5. Mr. N.L. Choudhary, the learned Advocate for the respondents submits that Act of 1974 is beneficial and social welfare legislation. It is meant for restoration of the property to the tribal, and further submits that social welfare legislation has to be construed so as to effectuate the purpose of the Act. The learned Single Judge has rightly held that revisional powers can be invoked up to 30 years. No error has been committed by the learned Single Judge and Commissioner while deciding the revision.

6. This Court (Coram : V.M. Kanade and V.K. Jadhav JJ) under order dated 19th January, 2017, directed the office to club present appeal along with Writ Petition No. 5076 of 2001 and as such, the Writ Petition is also before the Court.

7. The issue involved in the present matters is no longer *res integra*. There were divergent opinions of the learned Single Judges of this Court, regarding the limitation period for invoking *suo-motu* revisional powers. As such reference was

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made to the Division Bench of this Court. The Division Bench of this Court, to which one of us (S.V. Gangapurwala J) was a member, decided the said reference under order dated 5th August, 2016, and it was held that the limitation period to invoke *suo-motu* revisional powers by the Commissioner Under Section 7 of the 1974 Act is three years from the date of the order passed by the Collector, except in a case where direction is issued in that regard by the State Government.

8. In the present case, the Commissioner on his own, has invoked the *suo-motu* revisional powers. As such, the limitation period to invoke revisional jurisdiction by the Commissioner would be three years from the date of order passed by the Deputy Collector.

9. In the present matters, the revisional powers have been invoked by the Commissioner after a lapse of 20 years. The same was beyond the prescribed period of limitation.

10. In view of the above, Letter Patent Appeal No. 22 of 2001 and Writ Petition No. 5076 of 2001 are allowed. The impugned orders are quashed and set-aside.

(S.M. GAVHANE)
JUDGE

(S.V. GANGAPURWALA)
JUDGE