

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

WRIT PETITION NO. 11146 OF 2014

Mukesh Anandrao Bhosale & Ors.

....Petitioners

V/s.

District Superintendent of Land Records,

District Sangli & Ors.

....Respondents

Mr. Vishwajeet Kapse a/w. Mr. Pramod G. Kathane for the petitioners.

Ms. Vaishali Nimbalkar, AGP for respondent no.1.

Mr. Tushar Khairnar i/b. Mr. Umesh Mankapure for respondent nos.
2, 8, 9a and 10 to 13.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 07th JANUARY, 2019.

P.C.:

. Heard. Rule. Rule made returnable forthwith. By consent,
matter is taken up for final hearing.

2. The petitioners herein have challenged the order dated
30/06/2014 whereby the District Superintendent of Land Records,
Sangli has condoned the delay of 45 years and admitted the Appeal
filed by the respondent no.2 under Section 247 of Maharashtra Land
Revenue Act.

3. Heard Mr. Vishwajeet Kapse, learned counsel for respondent
no.1, Ms. Vaishali Nimbalkar, learned AGP for respondent no.1 and

Mr. Tushar Khairnar for respondent nos.2, 8, 9a and 10 to 13. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

4. A perusal of the appeal memo indicates that the respondent no.2 had infact challenged the entries made under Section 33(B) of Maharashtra Prevention of the Fragmentation and Consolidation of Holdings Act, 1947. The appeal against the said entries is provided under Section 35 of the said Act. The power to examine the legality and propriety of orders passed by any officer of Maharashtra Prevention of the Fragmentation and Consolidation of Holdings Act is vested with Settlement Commissioner. Instead of filing an appeal under the provisions of Maharashtra Prevention of the Fragmentation and Consolidation of Holdings Act, the respondent has filed an appeal under Section 247 of Maharashtra Land Revenue Act which has been admitted by the District Superintendent of Land Records after condoning the delay of 45 years. Suffice it to say that the District Superintendent of Land Records had no jurisdiction to examine the legality of said orders passed under Maharashtra Prevention of the Fragmentation and Consolidation of Holdings Act, 1947. The District Superintendent of Land Records has condoned the delay and admitted

the Appeal without considering the jurisdictional issue. The said order cannot be sustained. Hence, the Writ Petition is allowed. The impugned order dated 30/06/2014 is set aside with liberty to the respondent no.2 to file an appeal before the appropriate authority under Maharashtra Prevention of the Fragmentation and Consolidation of Holdings Act, 1947. It is expressly made clear that I have not gone into the merits of the matter. All points and contentions of parties are kept open to be agitated before the appropriate forum.

5. Rule is made absolute in the above terms.

(SMT. ANUJA PRABHUDESSAI, J.)