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

**WRIT PETITION NO. 13506 OF 2018**

1. Shri Namdeo Narayan Kadam
Age 45 years, Occ. Agriculture,
R/at. Hingangaon (Bk), Tal. Kadegaon,
District – Sangli.

2. Shri Vithal Narayan Kadam
Age 63 years, Occ. Agriculture,
R/at. Hingangaon (Bk), Tal. Kadegaon,
District – Sangli. ..Petitioners

vs.

1. State of Maharashtra
through Deputy Superintendent of
Land Records, Kadegaon,
District – Sangli.

2. Shri Balu Baburao Kadam
R/at. Hingangaon Bk,
Tal. Kadegaon, District – Sangli ..Respondents

...

Mr. Uday P. Warunjikar, Advocate for the Petitioners.

Ms. M. S. Bane, AGP for Respondent No.1.

Mr. Pradip R. Kadam, Advocate for Respondent No.2.

**CORAM : C. V. BHADANG, J.**

**RESERVED ON: 8th JANUARY 2020**

**PRONOUNCED ON: 10th JANUARY 2020**

**JUDGMENT:**

. By this petition under Article 227 of the Constitution of India, the petitioner is challenging the order dated 22/1/2018 passed by the District Superintendent of Land Records, Sangli (DSLR) under section 31A of the The Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947 ('Act' for short). By the impugned order, the DSLR has directed the correction of the revenue map of Gat No.14, 15 and 16 of Village Hingangaon (Bk), Taluka – Kadegaon, District – Sangli. Incidently, the said correction has been made on the basis of an application filed by the second respondent, who is the owner of land Gat No.14. The petitioner happens to be the owner of land Gat No.15. It may be mentioned that the occupant of land Gat No.16 has not raised any challenge.

2. The brief facts are that the consolidation scheme under the said Act was made applicable to the concerned village in the year 1989 and the lands were allotted various Gat numbers. In the year 2005, a certain portion of land Gat No.14 belonging to the second respondent was subject matter of acquisition by the Government. It appears that the second respondent applied to the Deputy Director of Land Records (DDLR), Pune on 29/6/2015, claiming that the revenue map after implementation of consolidation scheme is not drawn as per factual situation obtaining on the spot and therefore sought its correction. It appears that the owners of the adjoining gat numbers including the petitioners were noticed and the petitioner filed his objection to such correction. It was contended that the consolidation scheme has been made applicable, way back in the year 1989. A portion of land from Gat No.14 was acquired for

purpose of irrigation canal and second respondent had not lodged any complaint or applied for correction of map within three years. It was contended that the Gat map is as per the position land of Gat No.14, 15 and 16 on the spot and there was no error in the revenue map requiring its correction.

3. It appears that on the basis of the said application filed by the second respondent, a proposal was moved by the DSLR Kadegaon in Form No.2 on 28/2/2017 in which the DSLR claimed that there was no error in the implementation of the consolidation scheme. However, the request for correction of the map was corrected. In short, DSLR has recommended for the correction as prayed by the second respondent.

4. The District Superintendent of Land Records (DSLR) by the impugned order dated 22/1/2018 has allowed the correction on the ground that the map prepared on consolidation is defective and the defect is of a clerical nature and therefore has directed the correction of the said map and has confirmed the Corrigendum dated 28/2/2017. Feeling aggrieved by the said order, the petitioner is before this Court.

5. I have heard Mr. Uday P. Warunjikar, learned counsel for the petitioners, Ms. M. S. Bane, learned Assistant Government Pleader for respondent No.1 as well as Mr. Pradip R. Kadam, learned counsel for respondent No.2. I have gone through the record.

6. Mr. Warunjikar, learned counsel for the petitioners has submitted that the correction as has been allowed by the impugned

order does not partake of nature of clerical error within the meaning of Section 31A of the said Act. It is submitted that the correction of the map is a substantive modification / alteration of the consolidation scheme, which was not permissible under Section 31A of the said Act. He has referred to the comparative maps prior and subsequent to its correction in order to submit that the correction is bound to result in the reduction of the area of Gat No.15 and for the matter of that Gat No.16 and therefore the correction cannot be claimed only to be of clerical nature. It is submitted that once the DSLR in his proposal had come to the conclusion that there was no error in the implementation of the consolidation scheme, there was absolutely no occasion for correction of the map. On behalf of the petitioner, reliance is placed on the decision of the Supreme Court in the case of **(i) Telangana Housing Board Vs. Azamunnisa Begum (Died) through Legal Representatives and Ors. (2018) 7 Supreme Court Cases, 346, (ii) M/s. Tata Consulting Engineers Vs. Workmen 1980 (Supp) Supreme Court Cases 627 and the decision of this Court in Vasant Laxman Deshmukh Vs. Sakharam Limbaji Jadhav 1982 DGLS (Bom.) 22.**

7. Learned Assistant Government Pleader and learned counsel for the second respondent has supported the impugned order. It is submitted that the correction is indeed of a clerical nature and was within the ambit of Section 31A of the said Act. It is submitted that there is no modification or alteration in the consolidation scheme as such and having regard to the situation as obtaining on the spot during the existence of previous survey numbers, the map has only been corrected, in order to bring it in consonance with the situation as obtaining on the spot.

8. I have carefully considered the circumstances and the submissions made and I find that no case for interference is made out.

9. Section 31A and 32 of the Act which are relevant for the purpose read thus-

> ***Section 31A-***
>
> *If, after a scheme has come into force, it appears to the Settlement Commissioner that the scheme is defective on account of any clerical or arithmetical mistake or error arising therein from any accidental slip or omission, and he is satisfied that the correction of such mistake or error would not vary the scheme in any material particular, he may by order in writing correct such mistake or error and publish his order in the prescribed manner.*
>
> ***Section 32 -***
>
> *(1) If after a scheme has come into force it appears to the (Settlement Commissioner) that the scheme is defective on account of an error (other than that referred to in section 31A), irregularity or informality the (Settlement Commissioner) shall publish a draft of such variation in the prescribed manner. The draft variation shall state every amendment proposed to be made in the scheme.*
>
> *(2) Within one month of the date of publication of the draft variation any person affected thereby may*

*communicate in writing any objection to such variation to the (Settlement Commissioner).*

*(3) After receiving the objections under sub-section (2) the (Settlement Commissioner) may, after making such enquiry as (he may) think fit, make the variation with or without modification or may not make any variation.*

*(3A) If the scheme is varied under sub-section (3), a notification stating that the scheme has been varied shall be published in the Official Gazette and the scheme so varied shall be published in the prescribed manner in the village or villages concerned.*

*(4) From the date of the notification (stating that the scheme has been varied) the variation shall take effect as if it were incorporated in the scheme.*

10. It can thus clearly be seen that while Section 32 envisages the correction of the consolidation scheme, Section 31A merely provides for a situation where there is any error crept out of a clerical or arithmetic error or which has arisen, out of a accidental slip or omission. In the present case, the authorities claim that the correction is within the ambit of Section 31A of the Act. Section 32, on the contrary provides for correction of the scheme, which correction is of a substantive nature. A perusal of the record including the affidavit filed by Ms. Lata Gharat, Dy. Superintendent of Land Records, Kadegaon, shows that the land Gat No.14

admeasures 1 Hector 1R out of which a portion admeasuring 24 R is acquired for water canal. Gat No.15 belonging to the petitioner is admeasuring about 77 R while Gat No.16 which is owned by one Dutta Kadam and others is admeasuring 37 R. The DSLR has clearly come on record stating that there was no reduction of or addition of area of the land of either of the parties, at the time of the implementation of the scheme in the year 1989. Thus, it is abundantly clear that there is absolutely no variation of the area when the consolidation scheme was made applicable thereby converting the erstwhile survey numbers into gat numbers. It is not even the case made out by the petitioners that there is any reduction in the area of his land on account of the correction of the map. It is significant to note that although DSLR has come to the conclusion that there is no error in the implementation of the consolidation scheme, the error appears to have crept in only when the map (gat nakasha) was drawn. For this purpose, a copy of the sketch book which is the rough sketch prepared at the time of preparing gat nakasha is enclosed. It is contended that the final map does not confirm to the sketch book and it is, at this stage that due to the slip that an error had crept in.

11. I have carefully gone through the impugned order and the documents including the gat maps enclosed to the affidavit in reply filed by the State and it is clear that there is no variation or modification of the consolidation scheme as such as authorities have rightly held that there was no error in the implementation of the scheme as such. The error was only while preparing gat nakasha and by the impugned order it has been brought in consonance with the situation as obtaining on the spot which is well reflected in the

rough sketch. In my considered view, DSLR has rightly found that in order to keep the record in consonance with the factual situation, the correction was necessary and would fall within the ambit of Section 31A of the Act. It appears that the authorities have followed the provisions of Rule 28 of Rules framed under the said Act while effecting the said correction. In fact, there were no contentions raised as regards the procedure followed. In view of the specific stand taken by the State that there is no variation or reduction in the area of Gat No.15 belonging to the petitioner, in my considered view, no exception can be taken, to the impugned order and no case for interference is made out in the supervisory jurisdiction of this Court under Article 227 of the Constitution of India. The acquisition of part of the land from Gat No.14 has no bearing on the issue as involved in the present petition.

12. Mr. Warunjikar, learned counsel for the petitioners on comparison of the map (Gat Nakasha) prior to and after its correction submitted that it is bound to result into the reduction of the area of Gat No.15 and for the matter of that Gat No.16. The argument in my considered view although attractive at the first blush, cannot stand deeper scrutiny. This is because all that the authorities have done, is to bring the map in consonance with the situation as was obtaining prior to the consolidation when the survey numbers were in existence. If factually there is no reduction in the area of survey Nos.15 and 16 (which had it been there was bound to be reflected in the 7/12 extract), it cannot be held that there is any reduction as such. As noticed earlier, it is not even the case made out by any of the parties that there is any reduction in the area.

13. In the case of **Telangana Housing Board** (supra) the claim was for inclusion of additional area in the description of survey No.1004 and in that view of the matter it was held that the said correction cannot be said tobe clerical or arithmetical in nature, but of a substantial nature.

14. In the case of **M/s. Tata Consulting Engineers** (supra), the question was about the Industrial Tribunal issuing a Corrigendum to the judgment and award after it was pronounced. Incidently, the question was whether there was award of flat rate or Ad-hoc increase in the wages. On facts, it was held that the Corrigendum was within the ambit of Rule 31 of the Industrial Disputes (Bombay) Rules, 1957.

15. In the case of **Vasant Laxman Deshmukh** (supra) before this Court, the question was whether the plaint or decree can be amended, after its confirmation in appeal. In my considered view, the decision turned on its own facts. It is evident that the question whether the correction is of a clerical or arithmetic nature or it is of a substantive nature, would depend on the facts and circumstances of each case.

16. The petition is without any merit and is accordingly dismissed with no order as to costs.

**C.V. BHADANG, J.**