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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 1178 OF 2016

Dhanasing Sarjerao Jagtap & Ors. ... Petitioners
Vs.
Lalasaheb Babanrao Wable & Ors. ... Respondents

Mr. S. G. Deshmukh a/w Priyanka Kolekar i/b D. P. Kolekar, for the
Petitioners.

Mr. Nilesh Mohan Wable, for Respondent.

CORAM : C. V. BHADANG, J.

DATE : JANUARY 16, 2020

PC :

1. By this petition, Petitioners are challenging the judgment and order dated 19th November, 2001 passed by the Secretary and Officer on Special Duty (Appeals), Revenue and Forest Department, State of Maharashtra (for short “OSD”) thereby refusing to correct the revenue record in respect of land Gat No. 28 (old Survey No. 11/3) of village Vadgaon-Rasai, Taluka Shirur, district Pune.

2. Indisputably, the consolidation scheme under the provisions of Prevention of Fragmentation and Consolidation of Holdings Act, 1947 was (for short “Act”) implemented in the said village and the same was finalised somewhere in 1974-75. The agriculture land bearing Survey No. 11 from village Vadgaon-Rasai was purchased by (1) Damodar Kalba

Wagle; (2) Sarjerao Shripati Jagtap; (iii) Lalasaheb Baban Wagle, who partitioned the land among themselves vide Mutation Entry No. 3016 dated 10th January, 1969 as under:

<u>S. No.</u>	<u>Area</u> A. G.	<u>Name</u>
11/1	11-22	Damodar Kalba Wagle
11/2	5-38.5	Lalasaheb Baban Wagle
11/3	6-8.5	Sarjerao Shripati Jagtap

3. During the course of consolidation scheme, the aforesaid three sub-divisions of Survey No. 11 were converted in Gat numbers as under

<u>Gat No.</u>	<u>Survey</u> No.	<u>Area</u> H. R.	<u>Name</u>
28	11/3	2-40	Sarjerao Shripati Jagtap
29	11/2	2-53	Lalasaheb Baban Wagle
30	11/1	4-72	Damodar Kalba Wagle

4. Petitioners happen to be the successors of Sarjerao Jagtap. Late Sarjerao Jagtap filed a revision application under S. 35 of the said Act before the Dy. Director of Land Records, Pune on 24th December, 1992, challenging the consolidation to the extent of land Gat Nos. 29 and 28. It was contended that while executing the consolidation scheme, excess land was included in Gat No. 29, and there was a corresponding reduction in the area of land Gat No. 28 of Sarjerao Jagtap. The

difference, according to Sarjerao was to the extent of 8.5 Guntha. The Dy. Director of Land Records by an order dated 20th October, 1999 refused to grant the correction on the ground that he has no jurisdiction to entertain the grievance, which order was confirmed on 31st May, 2000. Feeling aggrieved, the Petitioners challenged the said order before the OSD (Appeals), where the appeal has been dismissed on 19th November, 2001. Hence, this petition.

5. I have heard learned counsel for the respective parties. Perused records.

6. Mr. S. G. Deshmukh, learned counsel for the Petitioners submitted that there was an apparent error in the area of Gat No. 28 (old Survey No. 11/3). It is submitted that area of Gat No. 29 (old Survey No. 11/2) was increased. There was a corresponding reduction of the area of Gat No. 28 to the extent of 8.5 gunthas. Learned counsel, in this regard, has referred to the report dated 31st August, 1999 of Taluka Inspector of Land Records (TILR), Shirur, in order to submit that in the said report, TILR has accepted that there was an error while effecting conversion of the land Survey No. 11/3 to Gat No. 28. It is submitted that in the report, TILR has clearly opined that area shown in the old 7-12 extract differs from the actual area, and there is a need for correction of the area, as per

the actual possession / cultivation. It is submitted that the authorities below have overlooked the said report.

7. Learned counsel for the respondents has supported the impugned order. It is submitted that there is a gross delay in moving for the alleged correction, as also in challenging the impugned order passed by the OSD and for this reason alone, petition is liable to be dismissed.

8. It is submitted that reliance placed on the report of TILR Shirur is misplaced. It is submitted that the authorities below have rightly found that no case for correction is made out, and hence petition be dismissed.

9. I have considered the submissions made. It appears that consolidation scheme was finalised in the year 1974-75 in which the old Survey Nos. 11/1, 11/2 and 11/3 were allotted Gat No. 30, Gat No. 29, and Gat No. 28 respectively. There is no dispute as to area of Gat No. 30. The only contention is that there is a difference in area of Gat Nos. 28 and 29, and the area of Gat No. 28 of the Petitioners has been reduced. The OSD has noticed that as per Section 19(1) of the Act, a person aggrieved by the consolidation scheme has to raise the grievance within 30 days. However, in the present case the objection as regards the area of Gat No. 28 was raised after a period of 17 years, on 24th December, 1992.

It has further been noticed that at the time of the consolidation scheme mutation as to sub-division of Survey No. 11 was recorded vide Mutation Entry No. 3483. The revisional authority has found that the measurement at the time of the implementation of the consolidation scheme and the measurement carried out after the Petitioners raised their grievance, does not differ and there is no change in the possession / occupation of the old survey numbers after their conversion into Gat numbers. These are all findings of facts recorded by both the authorities below.

10. Reliance placed on the report of TILR, to my mind, is misplaced. That apart, in the present case, there is a delay in making the original complaint which was made after 17 years on 24th December, 1992. Even the present petition is filed after a gross delay inasmuch as the impugned order of the OSD of the year 2001 is sought to be challenged in the year 2016. For the aforesaid reasons, in my considered view, no case for interference is made out. Petition is without any merit and is accordingly, dismissed, with no order as to costs.

Sd/-
C. V. BHADANG, J.

Vinayak Halemath

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P.
Halemath

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by Vinayak P.
Halemath
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