

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

WRIT PETITION NO.12139 OF 2019

**PARVATIBAI RAMKISHAN WAGHMODE THROUGH L.RS. POPAT
AMBADAS WAGHMODE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioners : Mr. N. L. Jadhav
AGP for Respondents – State : Mr. Y. G. Gujrathi
Advocate for Respondent Nos. 5 to 7 : Mr. A. N. Sabnis

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 15th SEPTEMBER, 2022

PER COURT :

1. This petition takes exception to order dated 18/06/2019, passed by respondent No.2 – Hon'ble State Minister for Revenue, Maharashtra State, Mantralaya, Mumbai, in revision Appeal No.2019/Pra.Kra.114/J-7A, thereby allowing revision filed by respondent Nos. 5 to 7.

2. Admittedly, consolidation scheme was finalised in the year 1980. Petitioner filed application seeking correction in consolidation scheme contending that there is error in recording area of Gut No.68 of village Bahadurpur, Beed, whereby 1 H 10 R additional land is shown in the name of respondent Nos. 5 to 7. This application can be said to be filed under Section 31A of the Maharashtra Prevention of Fragmentation and Consolidation of

Holdings Act, 1947 (for short 'said Act'). Respondent No.4 – District Superintendent of Land Records, Beed, allowed the said application and directed correction vide order dated 05/03/2018.

3. Respondent Nos. 5 to 7 challenged the said order before respondent No.3 – Deputy Director of Land Records, Aurangabad, who held that revision is maintainable under Section 35 of the said Act. Accordingly respondents preferred revision before respondent No.2, which is allowed on the ground that when consolidation scheme was finalised, at that time, no objection was taken by predecessors of petitioner and after 38 years period no correction can be ordered under Section 31(1) of the said Act.

4. I have given due consideration to rival submissions of learned advocate for petitioners, learned advocate for respondent Nos. 5 to 7 and learned Assistant Government Pleader for respondents – State. No illegality or perversity is found in order impugned in present petition.

5. Learned advocate for petitioners, in support of his submissions, placed reliance on unreported decision of this Court in ***Writ Petition No.3815/1998 (Santosh s/o Punjaram Pakhare and Others Vs. Vinayak s/o Sampatrao Wagh and Others)***. In that case, revisional powers under Section 257 of the Maharashtra Land

Revenue Code, 1966, were exercised, which was held to be not permissible by this Court. In present case, since powers are exercised under Section 35 of the said Act, no fault can be found with the same.

6. Learned advocate for respondent Nos. 5 to 7 has rightly relied on decision in ***Martand Sopan Jagadale since deceased through L.Rs. And Others Vs. Vishnu Maruti Vidhate since deceased through L.Rs. And Others (2014 SCC Online Bom 3012)***, wherein it is held :-

"1. Heard the learned Counsel appearing for the respective parties. By the impugned order, the Minister has quashed and set aside the order dated 21st December 2012 passed by the District Superintendent of Land Records, Pune. Insofar as the village Boriyendi is concerned, the consolidation scheme was carried out in the year 1966. The Petitioner in the year 2008 preferred an application under Section 31A of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act for correction of the clerical and arithmetical mistakes in the scheme. As stated above, District Superintendent of Land Records, Pune allowed the Petitioner's application thereby recording the Petitioner's name in the record of rights of the property in question by deleting the names of the Respondents. The District Superintendent of Land Records exercised the power under Section 31A of the said Act approximately after 40 years. Admittedly, there is no limitation prescribed for initiating action under section 31A. In the circumstances, it was expected of the Petitioner to approach the District Superintendent of Land Records within a reasonable time. The Supreme Court has in catena of decisions held that period of three years would be the reasonable period of limitation in case where it is not specifically provided. Despite this being the position, the District Superintendent of Lands Records entertained the Petitioner's application and passed orders adverse to the Respondents after the lapse of period of 40 years and that too when the Petitioner did not file any application for

condonation of delay. The Minister allowed the Respondents' revision on merits as well as on the ground that District Superintendent of Land Records could not have exercised power under Section 31A of the Act after the lapse of 40 years. In my opinion, the finding recorded by the Minister could not be said to be perverse. I do not see any reason to interfere with the impugned order warranting the exercise of extra ordinary writ jurisdiction of this Court under Article 227 of the Constitution of India. Writ petition is therefore dismissed."

7. Admittedly, consolidation scheme is finalised in the year 1980 and at the time of said finalisation no objection has been taken on behalf of petitioner or his predecessors. Therefore, after lapse of more than 37 years proceedings filed by petitioner should not have been entertained by respondent No.4. In catena of decisions, the Hon'ble Apex Court as well as this Court has held that correction has to be sought within a reasonable period which is held to be three years. In the light of this settled legal position, respondent No.2 was justified in allowing revision and setting aside order passed by respondent Nos.3 and 4.

8. For the aforesaid reasons, writ petition being devoid of merits is dismissed.

(NITIN B. SURYAWANSHI, J.)