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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1521 OF 2019

Sheshrao Tukaram Suryawanshi
Age – Major, Occ – Agriculture
R/o At – Zari (Khu) Post – Zari (Bu)
Taluka – Chakur, District - Latur

PETITIONER

VERSUS

- | | |
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| 1. The Deputy Director of Land Record
Damadi Mahel, Beside Panchayat Samiti,
Aurangabad Region, Aurangabad | RESPONDENTS |
| 2. The District Superintendent of Land Record,
Administrative Building, Iind Floor,
Hall No. 4, Latur, District – Latur | |
| 3. Shankar s/o Tukaram Suryawanshi,
Age – Major, Occ- Agriculture
R/o At – Zari (Khu), Post – Zari (Bu)
Taluka – Chakur, District - Latur | |

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Mr. Bramhanand M. Dhanure, Advocate for the petitioner
Mr. S. W. Munde, AGP for respondent - State
Mr. Pratap G. Rodge, Advocate for respondent No.3

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 23rd JUNE, 2022

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard finally with the consent of learned advocates for the parties.

2. This petition, filed under Article 227 of the Constitution of India, challenges order dated 21st May, 2015 passed by respondent No.2.

3. Admittedly, consolidation scheme, in the present case, is finalized in the year 1988. Respondent No.3 moved an application on 30th December, 2014, after a period of 25 years and 10 months, seeking rectification in the consolidation scheme, contending that during the finalization of the consolidation scheme, 30 Are less land is given to him.

4. The application was partly allowed by respondent No. 2 and direction was given to the Deputy Superintendent of Land Records to carry out measurement of survey No. 49 by giving notices to all the land holders of the said survey number and if any correction is found necessary, to forward proposal for correction, under section 32 (1) of the Consolidation Act.

5. The petitioner, being aggrieved by the same, filed appeal before respondent No. 1, which was disposed of by respondent No.1 on the ground that the petitioner is at liberty to raise objection, if any proposal for correction in the consolidation scheme is initiated.

6. Heard learned advocate for the petitioner, learned Assistant Government Pleader for respondents – State and learned advocate for respondent No.3.

7. The only point pressed for service by the learned advocate for the petitioner is that the application filed by respondent No. 3 was after a delay of 25 years and 10 months and the respondent No. 2 has no jurisdiction to entertain the same. There was not even a prayer for condonation of delay and no application seeking delay condonation was filed. Though this objection was raised by the petitioner, the same is not considered by respondent No. 2 while passing the impugned order.

8. Learned Assistant Government Pleader and learned advocate for respondent No. 3 supported the impugned order and requested to dismiss the petition.

9. The point raised in the present writ petition is no more *res integra*, in the light of following decisions of this Court:

- i. In "***Padmabai Narayan Chaudhary and Others V/s Deputy Director of Land Records***" 2020 (2) ***Mh.L.J. 861***, there was delay of 47 years in seeking

modification of consolidation scheme and this court, on the ground of delay, quashed the impugned order.

- ii. In "*Dhanasing Sarjerao Jatgap and Others V/s Lalasaheb Babanrao Wable and Others*" 2020 SCC On line, Bom 3139, the impugned order was quashed and set aside on the ground that there was delay of 17 years in seeking modification in the consolidation scheme.
- iii. In "*Suresh Bapu Sankanna and Others V/s State of Maharashtra and Others*" 2018 (4) Mh.L.J. 331, the Division Bench of this Court held that modification or correction of finalized consolidation scheme can be made only within three years of such finalized scheme.

10. Admittedly, in the present matter modification in the consolidation scheme was sought after a period of 25 years and 10 months. Though such objection was raised by the petitioner, the same was not adverted to by the respondent No.2. The impugned order cannot be sustained since the application was filed after inordinate and unexplained delay and the same is,

therefore, quashed and set aside. Writ petition is allowed. Rule is made absolute in terms of prayer clause "C". No costs. Parties are at liberty to agitate their grievances before appropriate forum.

[NITIN B. SURYAWANSHI]
JUDGE

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