

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

WRIT PETITION NO.14340 OF 2017

1. Uttam Nanasaheb Gaikwad
Age : 48 years Occ. Agriculturist
R/o. Gajipur Padali, Tq. Paithan,
Dist: Aurangabad
2. Ramesh Nanasaheb Gaikwad
Age : 42 years. Occ Agriculturist &
R/o. As Above
3. Ratan s/o Nanasaheb Gaikwad
Age : 40 years Occ. Agriculturist &
R/o. As above

... Petitioners

Versus

1. State of Maharashtra through
Revenue Minister Maharashtra State,
Revenue and Forest Department,
Hutatma Rajguru Chowk,
Madame Kama Marg,
Mantralaya, Mumbai -32
2. Deputy Director Land Record
Aurangabad Division,
Aurangabad
3. Superintendant of Land Record, Paithan
Tq. Paithan Dist: Aurangabad
4. Chhabu s/o Manaji Gaikwad
Age.68 yrs. Occ. Agriculturist & Service.
R/o. Gajipur Padali,
Tq. Paithan, Dist: Aurangabad
5. Raibhan s/o Manaji Gaikwad
Age. 63 yrs. Occ. Agriculturist
R/o. Gajipur Padali,
Tq. Paithan, Dist: Aurangabad
6. Damodhar s/o Manaji Gaikwad
Age. Major yrs. Occ. Agriculturist
R/o. Gajipur Padali,
Tq. Paithan, Dist: Aurangabad

7. Shridhar s/o Murlidhar Gaikwad
Age. Major yrs. Occ. Agriculturist
R/o. Gajipur Padali,
Tq. Paithan, Dist: Aurangabad ... Respondents

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Advocate for Petitioners : Mr. Amit A. Yadkikar
AGP for Respondents – State : Mrs. G. L. Deshpande
Advocate for Respondents No. 4, 5 & 7 : Mr. P. L. Jadhav

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 01st JULY, 2022

ORAL JUDGMENT :

1. **Rule.** Rule made returnable forthwith. Heard finally by consent of the parties.
2. Order dated 13/11/2017 passed by the Hon'ble Revenue Minister for State in Appeal-2016/Pra.Kra.145/J-7 is impugned in the present petition.
3. It is not in dispute that consolidation scheme in respect of the property in question was finalised in the year 1971. The petitioners thereafter filed R.C.S. No.85/2009 seeking injunction against respondents No. 4 and 5 and others. By order dated 05/08/2009 temporary injunction is granted by the Trial Court in favour of the petitioners. Thereafter, respondents filed the present proceeding seeking correction in the consolidation scheme, which was decided by the Deputy Director of Land Records on 01/09/2015, thereby rejecting the proceeding filed by respondents

No. 4 and 5. The order passed by the Deputy Director of Land Records was successfully challenged by the respondents before the Hon'ble State Minister for Revenue in revision, which is registered as Appeal-2016/Pra.Kra.145/J-7. The appeal is allowed by the impugned order by setting aside the order dated 01/09/2015 passed by the Deputy Director of Land Records and direction is given to him to verify the actual possession, *Vahivat* and ownership on the site and thereafter initiate further proceeding.

4. After hearing the learned advocates for respective parties and the learned Assistant Government Pleader for respondents – State, this Court is of the considered view that the impugned order cannot be sustained. Admittedly respondents No.4 and 5 have sought correction in the consolidation scheme finalised in the year 1971, in the year 2015, that is after delay of more than 44 years. It is a settled legal position that the correction in the consolidation scheme can be sought within a reasonable time, which is held to be three years. Application for variation made after about 27 years was held to be not within reasonable period and the Division Bench of this Court, therefore, set aside the order of variation/correction on that ground vide decision in ***Dattu Appa Patil and Others Vs. State of Maharashtra and Others, 2007 (1) Mh.L.J. 393***. In the light of this ratio, the impugned order passed by

respondent No.1 is without jurisdiction as the proceeding is entertained after delay of 44 years.

5. Strong reliance is placed by the learned advocate for respondents No.4 and 5 in *Kisan Bhimrao Patil and Others Vs. The State of Maharashtra and Others, 2020(6) ALL MR 202*, wherein this Court has condoned delay of 13 years in making correction in the consolidation scheme.

Since in the present case correction was sought after delay of more than 44 years, in the light of decision in *Dattu Appa Patil and Others* (supra) the impugned order is unsustainable.

6. For the aforesaid reasons, writ petition is allowed in terms of prayer clause 'A'. The impugned order dated 13/11/2017, passed by respondent No.1 in Appeal-2016/Pra.Kra.145/J-7 is hereby quashed and set aside. Rule is made absolute. No costs.

(NITIN B. SURYAWANSHI, J.)