

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

WRIT PETITION NO. 4759 OF 2022

1. Limbaji s/o. Babanrao Bobade .. Petitioners
Age. 64 years, Occ. Agri.,

2. Begaji s/o. Limbaji Bobade
Age. 37 years, Occ. Agri.,

3. Munjaji s/o. Limbaji Bobade
Age. 32 years, Occ. Agri.,
All above r/o. Takali Bobade,
Tq. & Dist. Parbhani.

Versus

1. Dattrao s/o. Bhaurao Kadam .. Respondents
Died through his LR's.

1/1. Sumanbai w/o. Dattrao Kadam
Age. 68 years, Occ. Household,

1/2. Prayagbai w/o. Uttamrao Kadam
Age. 49 years, Occ. Household,

1/3. Krishna s/o. Uttamrao Kadam
Age. 29 years, Occ. Agri.,

1/4. Sudam s/o. Uttamrao Kadam
Age. 22 years, Occ. Agri.,

1/5. Arjun s/o. Uttamrao Kadam
Age. 20 years, Occ. Agri.,

1/6. Vijay s/o. Uttamrao Kadam
Age. 18 years, Occ. Agri.,

All above R/o. Takali Bobade,
Tq. & Dist. Parbhani.

2. District Superintendent Land Record,
Parbhani, Tq. & Dist. Parbhani.
3. Deputy Superintendent Land Record,
Parbhani, Tq. & Dist. Parbhani.
4. Deputy Director Land Record
Aurangabad, Tq. & Dist. Aurangabad.

Mr.Sachin S. Deshmukh, Advocate for the petitioners.

Mr.R.J. Nirmal, Advocate for respondent Nos. 1.1 to 1.6.

Mr.K.B. Jadhavar, AGP for the respondent/State.

CORAM : KISHORE C. SANT, J.
DATED : 04.08.2023

PC :-

01. Heard learned Advocates for the parties. The petition is taken up for final disposal by consent of the parties.

02. The main thrust of the petition is that the consolidated scheme which attained finality on 23.12.1974 was sought to be modified by the respondents by approaching authority on 09.01.2012 i.e. after almost 38 years. The learned District Superintendent of Land Record entertained the application and passed order on 20.07.2016. He submits that it was totally beyond limitation. He relied upon judgment delivered by Division Bench of

this Court in the case of **Suresh Bapu Sankanna and Ors. Vs. State of Maharashtra and Others reported in 2018(4) Mh.L.J.331**, wherein it is held that under the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947, no limitation is provided for modification under section 32 of the Act. However, same shall be ordinarily three years. This judgment is delivered considering various judgments of the Hon'ble Supreme Court as well as this Court. He thus submits that this exercise was totally uncalled for. However, he submits that he has challenged the said order by filing appeal before the Deputy Director of Land Records, Aurangabad. Since there is delay, he has filed application for condonation of delay bearing No.498 of 2022. He submits that though it appears that the petitioner has approached two authorities simultaneously. However, he tried to justify the same saying that independently action of the DILR can be challenged before this Court. This Court is not much impressed by this submission.

03. The learned Advocate for the respondents vehemently opposes the petition and submits that on one hand the petitioners are harping upon reasonable period and on the other hand they themselves have approached the appellate authority after five years and 180 days. He submits that when

the petitioners are challenging the action of the DILR on the ground of delay, they cannot at the same time seek condonation of delay of five years and 180 days.

04. Be as it is, this Court finds that when the appeal is already pending with delay condonation application, it would be desirable to direct the Dy. Director of Land Records to decide application bearing No.498 of 2022 within a period of three months from today.

05. Since this Court has already granted stay vide order dated 27th April, 2022, it shall be continued for a period of three months from today or till the application for condonation of delay is decided, whichever is earlier.

06. With the above directions, the writ petition is disposed off with no order as to costs.

[KISHORE C. SANT, J.]