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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 10530 OF 2024
IN
REVIEW APPLICATION STAMP NO. 25814 OF 2024
WITH
REVIEW APPLICATION STAMP NO. 25814 OF 2024
IN
WRIT PETITION NO. 4898 OF 2022

GORAKH SHIVAJI DAREKAR
VERSUS
TUKARAN GUNDAPPA DAREKAR AND OTHERS.

...

Mr. Prasanna S. Chavan, Advocate for applicant,
Mr. A.V. Lavte, AGP for respondent/State

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 27TH SEPTEMBER, 2024.

ORDER :-

1. Heard Mr. Prasanna Chavan, learned advocate for the applicant.
2. Present application takes exception to the order dated 4.7.2024 passed in W.P. No. 4898 of 2022 by which the writ petition has been allowed in terms of prayer clause (C) and the order dated 28.3.2022 passed by Deputy Director of Land Records, Aurangabad in Consolidation/Appeal/S.R.1330/18 has been quashed and set aside..
3. Mr. Chavan, learned advocate for the applicant invites attention of this Court to the observations in para. Nos. 7 and 8 of the order under review and contends that this Court has taken this case to be an application for modification of the consolidation scheme, however, challenge in the petition was restricted to the correction of the clerical

error in the mutation entry that was carried forward in the consolidation record during the implementation of the scheme.

4. He would submit that the law laid down by this Court in catena of judgments deprecating entertainment of delayed challenge to the consolidation scheme, would not apply in present case. At this stage, it would be apposite to refer to the observations of the Supreme Court in the matter of ***S. Murli Sundaram vs. Jothibai kannan reported in AIR 2023 SC (CIVIL) 1529*** wherein their Lordships have observed in para.5.3 as under :-

“5.3 In the case of ***Shanti Conductors (P) Ltd. (AIROnline 2019 SC 1931) (supra)***, it is observed and held that scope of review under Order 47 Rule 1 CPC read with Section 114 CPC is limited and under the guise of review, the petitioner cannot be permitted to re-agitate and re-argue questions which have already been addressed and decided. It is further observed that an error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review under Order 47 Rule 1 C.P.C.”

5. Having considered submissions advanced, and parameters of review jurisdiction, it is apparent that the challenge was raised in writ petition to the consolidation entries which, according to the applicant, were based on the incorrect mutation effected during implementation of scheme. Even assuming that the challenge raised on behalf of the applicant falls within Section 31 of the Consolidation Act, fact remains that belated challenge was made after more than 40 years of

implementation of the scheme or culminating mutation entries in consolidation record. This Court, therefore, allowed the writ petition thereby setting aside impugned order on the ground of delay and laches in raising the challenge to consolidation records. In that view of the matter, there is no merit in the review application.

6. Review application Stamp No. 25814 of 2024 stands dismissed. Civil application No. 10530 of 2024 stands disposed of.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-