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{wp293.23}

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

905 WRIT PETITION NO. 293 OF 2023

GANPATRAO SULTANJI PAWDE AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA THROUGH DIRECTOR AND SETTLEMENT
COMMISSIONER AND OTHERS

Mr.M.K. Bhosale, Advocate for the petitioners.

Mr.R.K. Ingole, AGP for the respondent-State.

CORAM : KISHORE C. SANT, J.

DATE : 01.10.2024

PC :-

01. The main ground raised in this petition is that the order under the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947 (for short "the Consolidation Act") is passed by the learned District Superintendent of Land Record. It is submitted that the said order is without jurisdiction. The proceeding was under the Consolidation Act. Under the Consolidation Act, it is only the Settlement Commissioner of Pune, who has jurisdiction to decide the application, since the application is for correction of scheme. The learned Advocate for the petitioner relies on judgment passed by this Court in the case of **Jalindar Sadashiv Hirde & Ors. Vs. State of Maharashtra and Ors., reported in 2018 (4) Mh.L.J. 200.**

02. The learned AGP submits that in any case the appeal filed by the petitioners is barred by the limitation, as the same is not filed within reasonable time i.e. three years. He points out from the judgment relied upon by the petitioners that the delay cannot be considered. He submits that there are several judgments on this point. He, thus, prays for rejection of the petition.

03. Upon considering the judgment in the case of **Jalindar (supra)**, this Court finds that the order impugned in this petition is passed without jurisdiction. The impugned order is, therefore, quashed and set aside. The petitioner is at liberty to file appeal, before proper authority. Needless to say that the Authority shall first consider question of limitation, in case the application is filed and then proceed to decide the appeal on merits, only when the Authority is satisfied that the delay can be condoned.

04. The petition stands disposed off with no order as to costs.

[KISHORE C. SANT, J.]