



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

WRIT PETITION NO. 1118 OF 2024

SUNIL ASHRUBA MAKAL AND OTHERS

VERSUS

**THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS**

....

Mr. B. R. Sable, Advocate for Petitioners

Mr. R. S. Wani, AGPO for Respondent – State

....

**CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.**

DATE : 30.01.2024

PER COURT :-

1. The Petitioners' application dated 02.07.2022 does not make any mention as to, under which provision, the said application has been filed. Nevertheless, it is the contention of the Petitioners that there was no exchange of lands/shares and the consolidation scheme with reference to Survey No.173 and 174 carries a clerical mistake. It is, therefore, prayed that the said application be considered by Respondent No.2 under Section 31(A) of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act.

2. The learned AGP submits that the contention of the Petitioner that there was no exchange of lands, in itself indicates that the consolidation scheme does not carry a clerical error. It is the contention of the Petitioners which goes to the roots of the consolidation scheme. Not being a clerical error, Respondent No.3 rightly concluded that the application cannot be entertained beyond 30 days considering the limitation applicable once the consolidation is done under Section 19(1). He submits that the Petitioner will have to approach the Divisional Commissioner.

3. The Petitioner will have to challenge the order dated 30.08.2023, by which Respondent No.3 declined to entertain the application of the Petitioner beyond 30 days limitation, under Section 35 of the said Act, by resorting to the statutory remedy provided in law.

4. If there was a clerical error, one could have dealt with it. If the contention of the Petitioner is that there is no exchange of lands with some persons, who are not arrayed as Respondents in this Petition, this issue would not have the trappings of a clerical mistake. The Petitioners will have to assail the order dated 30.08.2023.

5. In view of the above, **this Writ Petition is disposed off** with liberty to the Petitioners to avail of the statutory remedy as is permissible in law.

[Y. G. KHOBRAGADE, J.]

[RAVINDRA V. GHUGE, J.]

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