



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3480 OF 2017

Mr. Dinkar Shamrao Shinde and Others. ...Petitioners.

Versus

The District Superintendent of Land
Record, Sangli and Others. ...Respondents.

*Mr. Pramod Kathane, Mr. Amol Ghurde and Ms. Muzayyana B. Shaikh for the
Petitioner.*

Mr. B. B. Dahiphale, AGP for the Respondent-State.

Mr. Prasad Avhad i/b Mr. Kuldeep U. Nikam for the Respondent No. 2.

Coram : Sharmila U. Deshmukh, J.

Date : December 10, 2024.

P. C. :

1. Heard.
2. By this petition, challenge is to the order dated 14th May 2013 condoning the delay caused in preferring the RTS Appeal before the District Superintendent of Land Records seeking variation of the consolidation scheme which was implemented in or about 1965.
3. Learned counsel appearing for the Petitioner would submit that variation of the consolidation scheme which was implemented in the year 1965 was sought in the year 2011 and such a huge delay came to be condoned. He submits that it is settled position of law that application for variation of consolidation scheme cannot be instituted

after the reasonable period which has been construed by the Courts to be a period of three years. He would further submit that apart from the aspect of delay, considering the provisions of Section 32 of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, the power vests in the Settlement Commissioner and not with the District Superintendent of Land Records. He submits that without any jurisdiction, the District Superintendent of Land Records has entertained the delay condonation application and has condoned the delay.

4. *Per contra* learned counsel appearing for the Respondent No.2 would fairly concede that appropriate proceedings will have to be taken before the Settlement Commissioner for variation of consolidation scheme.

5. From the record it appears that the application was filed by the Respondent No.2 seeking variation of consolidation scheme before the District Superintendent of Land Records and under Section 32 of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, the power vests in the Settlement Commissioner for variation of the consolidation scheme.

6. In the light of above, the impugned order dated 14th May 2023 passed by the District Superintendent of Land Records is quashed and set aside. Petition is allowed in terms of prayer Clause (a).

7. It is open for the Respondent No.2 to adopt appropriate proceedings, which will be decided on its own merits and in accordance with law and all rights and contentions of both the parties are expressly kept open.

[Sharmila U. Deshmukh, J.]