IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

959 WRIT PETITION NO. 5251 OF 2017

Leelabai Baburao Jagdale
VERSUS
The State Of Maharashtra And Others

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- Mr. Kalani Pravin N. And Mr. M. B. Ubale, Advocates for the Petitioner
- Ms. V. S. Chaudhari, AGP for State
- Adv. U. R. Awate, Advocate for Respondent Nos. 5 and 6

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CORAM : NITIN B. SURYAWANSHI &
VAISHALI PATIL – JADHAV, JJ.

DATE : 13th NOVEMBER, 2025

PER COURT:

1. By this petition filed under Article 226 and 227 of the Constitution of India, the petitioner challenges the proceedings bearing No./CON/SR/660/2017 arising out of application dated 03.12.2016 filed by respondent Nos. 5 and 6, pending before respondent Nos. 2 to 4.

2. The facts which led to filing of this petition can be stated in short as; respondent Nos. 5 and 6 preferred application dated 19.12.2011 seeking correction in the consolidation scheme in respect of survey No. 91 and its sub-divisions (*Pot Hissas*). Pursuant to the said application, measurement of Gat No. 91 and its sub-divisions was carried

out and the correction in the consolidation scheme was notified on 12.03.2015.

3. Petitioner being aggrieved by the said corrections preferred revision before the Hon'ble Minister of Revenue & Forest Department and according to the petitioner, the same is pending for consideration before the Hon'ble Minister.

4. Respondent Nos. 5 and 6 again preferred an application before respondent No. 2 on 03.12.2016 seeking a prayer that the survey No. 91 be remeasured and the area in their possession be corrected. The petitioner is aggrieved by the said application. The petitioner contends that the land was measured and the consolidation scheme was corrected, and the said proceeding is sub judice before the Hon'ble Minister, the respondents could not have made the same prayer.

5. Advocate for respondent Nos. 5 and 6 submits that petitioner has filed Say, opposing the said application only raising a ground that the said application is not made within reasonable time. He, further submits that the Apex Court in ***Uttam Namdev Mahale Vs. Vitthal Deo And Others***[1] has held that where the statute has not prescribed any limitation, the Courts cannot read into the said provision

1 (1997) 6 SCC 73

that the proceeding has to be filed within reasonable time. He further submits that this decision is followed by the State in Writ Petition No. 9745 of 2011. Therefore, according to him, there is no merit in the contention of the petitioner.

6. Even if we accept the said argument of respondent Nos. 5 and 6, fact remains that when the earlier proceeding is pending before the Hon'ble Minister, respondent Nos. 5 and 6 could not have made the same prayer as was made by them in earlier application. The subsequent application challenged by the petitioner, according to us, is not maintainable. Hence, writ petition is **allowed**. The proceedings of application No./CON/SR/660/2017 pending before respondent Nos. 2 to 4 is hereby quashed and set aside.

[VAISHALI PATIL – JADHAV, J.] **[NITIN B. SURYAWANSHI, J.]**