



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

WRIT PETITION NO. 6665 OF 2019

1. Indrabai w/o Namdeo Mandlik
Age : 76 years, Occu. : Agri.
2. Vitthal s/o Namdeo Mandlik
Died through his son
Bapu s/o Vitthal Mandlik
Age : 32 years, Occu. : Agri.
3. Raghunath s/o Namdeo Mandlik
Age : 49 years, Occu. : Agri.
4. Bhausahab s/o Namdeo Mandlik
Age : 44 years, Occu. : Agri.
5. Sindhubai Ajinath Adsul
Age : 51 years, Occu. : Agri.
6. Sojarbai Hausrao Rajguru
Age : 48 years, Occu. : Agri.
7. Alka Uddhav Gade
Age : 40 years, Occu. : Agri.
8. Jalasabai Mahadeo Adsul
Age : 78 years, Occu. : Agri.
9. Hausabi Sopan Londhe (Dead)
Through his L.Rs.
- 9-A Rama Sopan Londhe
Age : 50 years, Occu. : Agri.
- 9-B Hanbhau Sopan Londhe
Age : 45 years, Occu. : Agri.
- 9-C Savitra Zumbar Shinde
Age : 65 years, Occu. : Agri.

All R/o. Bavi, Tq. Jamkhed,
Dist. Ahmednagar.

.. Petitioners
(Orig. Respondents)

Versus

1. The State of Maharashtra
Through its State Minister (Revenue),
Mantralaya, Mumbai.
2. The Additional Commissioner,
Nashik Division, Nashik.
3. The Additional Collector,
Ahmednagar, District Ahmednagar.
4. The Sub Divisional Officer,
Sub Division Office, Karjat, Dist. Ahmednagar.
5. The Circle Officer, Bavi,
Tq. Jamkhed & Dist. Ahmednagar.
6. Bapu s/o Gulab Mandlik
Age : 34 years, Occu. : Agri. & Service
R/o. : Bavi, Tq. Jamkhed,
Dist. Ahmednagar.

.. Respondents
(Res. No. 6 orig. applicant)

Mr. N. S. Muthiyan, Advocate for the Petitioners.
Mr. S. P. Joshi, AGP for Respondent Nos. 1 to 5.
Mr. N. L. Jadhav, Advocate for Respondent No. 6.

CORAM : KISHORE C. SANT, J.

Date on which reserved for order : 06th January, 2025.

Date on which order pronounced : 18th February, 2025.

FINAL ORDER :-

. This petition is by the original respondents in the proceedings

filed by respondent No. 6 – Bapu Mandlik in Revision Application No. 69/2013 before the learned SDO, Karjat. He lost before the learned SDO, learned Collector and before the learned Divisional Commissioner. However, he succeeded before the State Government. The Hon'ble Minister in the revision accepted the case of the respondent No. 6 and cancelled the mutation entries bearing Nos. 869, 346 and 927 standing in favour of petitioners. During the proceeding, now the heirs of petitioner No. 9 are brought on record.

2. The facts in short giving rise to the present petition are that, the petitioners happen to be successors of one Ganpat Dhondiba Mandlik and Namdeo Ganpat Mandlik. The mutation entries are taken in their names on the land Gat Nos. 198 and 197 admeasuring 4H 84R. Their names appeared on 7/12 extract vide mutation entry No. 346 and 927. The mutation entry No. 869 was also taken in the name of Ganpat Dhondiba Mandlik as the land was given to him by the Government being landless agricultural labour. These mutation entries were taken long back.

3. It is the case of respondent No. 6 – Bapu that his father Gulab was the only legal heir of Saheba, however, Gulab died when the Bapu was minor. When the land was given to one Saheba Dhondiba Mandlik, it was given on condition that it would not be transferred. The

respondent No. 6 happens to be grandson of Saheba Dhondiba Mandlik. Saheba had transferred the land in the name of respondent No. 6 – Bapu vide mutation entry No. 1017. Bapu was the only successor of Saheba Dhondiba Mandlik. It is for this reason the respondents started harassing his widow mother. His mother therefore left the village and went to reside with her parents. Thereafter, the mutation entries were taken by the petitioners in their names. All these things came to the knowledge of Bapu after he became major. He thus filed revision praying for cancelling mutation entry Nos. 869, 346 and 927. He further prayed that his name be taken in revenue record being only successor of Saheba Mandlik.

4. Bapu thus approached the learned SDO, Karjat who held that there was partition that took place in the year 1981. It is held that the learned Tahsildar had passed order accepting the partition between Saheba and Ganpat by order dated 02.03.1981. On the basis of partition, entry No. 869 is taken dividing the land into Survey Nos. 27/1 and 27/2 i.e. the original Survey numbers before formation of Gat numbers. This entry No. 869 is made prior to 33 years. Entry No. 346 is taken on 18.12.1998 after death of Ganpat. There is no objection raised to the said entry. Entry No. 927 is also taken long back i.e. on 07.12.2011. Before learned SDO it was the case of the present

petitioners that, since the entries are taken long back, the revision cannot be entertained even on the ground of delay and laches. No application for condonation of delay is filed. The learned SDO thus considering all above, rejected the revision as beyond limitation. The said order was confirmed.

5. Bapu thereafter filed appeal before the learned Additional Collector along with application for condonation of delay. The learned Additional Collector rejected the delay condonation application as the said appeal was filed after nine (09) months and twenty one (21) days. It is considered that, under Section 252 of the Maharashtra Land Revenue Code (for short "MLRC"), the appeal is not maintainable against the order passed in revision. Bapu filed revision against the order passed by the learned Additional Collector by approaching the learned Divisional Commissioner. The learned Divisional Commissioner held that, there is no sufficient explanation given for condonation of delay and rejected the revision. Against the said rejection, Bapu filed appeal under Section 257 of the MLRC before the State Government.

6. The Hon'ble Minister accepted the case of Bapu. It is concluded that, the land was granted to Sahebrao Dhondiba Mandlik by the Government on 01.08.1960. The said land cannot be transferred.

Taking the entries in the name of earlier owner Ganpat Mandlik was not correct. The Hon'ble Minister thus cancelled the orders passed by the learned Divisional Commissioner and cancelled the mutation entries. The petitioners are thus before this Court.

7. The learned advocate Mr. Muthiyan for the petitioners vehemently argued that, Bapu had filed a revision after 33 years before the learned SDO. The learned SDO rightly rejected the revision as beyond limitation and secondly, there was no delay condonation application filed along with said revision. The learned Collector and the learned Divisional Commissioner confirmed the orders, however, the Hon'ble Minister erroneously considered the matter and cancelled the mutation entries. It is clear from the record that, it is the petitioners who are in possession of the land. There is no case of fraud made out by Bapu. There was no reason for the Hon'ble Minister to cause interference in the well reasoned judgments by the authorities. He relies upon the following judgments.

(i) **Balkrishna Sadashiv Thakur and Ors. Vs. Prabhakar Sadashiv Thakur and Ors.** in Writ Petition No. 2658/2018 decided at Principal Seat at Bombay.

(ii) **Vinaykumar Kachrual Abad Vs. Honourable Minister, Revenue and others** reported in **2002 (1) Mh.L.J. 854.**

8. The learned advocate Mr. Jadhav for respondent No. 6 vehemently argued that, the basic entries taken in the names of these petitioners were taken by playing fraud on the authorities. Undisputedly, Saheba Dhondiba was the person in whose favour the land was given. Saheba had only one son Gulab who died when Bapu was minor. Bapu was the only successor of Saheba Dhondiba. The petitioners have no concern with the said land and still their names are recorded. He submits that when the entries were taken, the Bapu was minor and thus, there was no reason for him to challenge the entries till he became major. Presently, a suit is filed and is pending before the Civil Court. He relies upon the following judgments.

(i) Dharam Singh (D) Through L.Rs. And Ors. Vs. Prem Singh (D) Through L.Rs. in Civil Appeal No. 516/2009.

(ii) Shri Nivruti G. Ahire Vs. State of Maharashtra & Ors. reported in 2007 (4) ALL MR 347.

9. The learned A.G.P submits that, the land is Government land. Limited rights were created in favour of the person to whom land was allotted. He invites attention to the order of the learned Tahsildar giving land to Saheba Dhondiba Mandlik. It was given only for cultivation and no ownership rights are created. There is specific

condition No. 2 that, he would personally cultivate the land. He thus submits that, even the names of the petitioners could not have been taken in the revenue record. The Hon'ble Minister has thus rightly passed the order. He prays for rejection of the writ petition as devoid of merits.

10. In the case of **Balkrishna Sadashiv Thakur and Ors.** (*supra*), this Court at Principal Seat at Bombay considered, in similar situation, where the revision was preferred after many years that too without any application for condonation of delay and held that, the learned S.D.O. had no jurisdiction to consider the grievance of the respondents on merits without condoning the delay. Therefore, the orders passed were held to be nullity. Both the authorities did not consider the question of delay in spite of that being raised by the respondent therein. In that view, this Court allowed the writ petition and quashed the orders passed by the learned SDO, Additional District Collector, Divisional Commissioner and consequently the order passed by the Hon'ble Minister.

11. In the case of **Vinaykumar Kachulal Abad** (*supra*), this Court held that, in revision application was restricted to the issue regarding condonation of delay. The Court considered the case of **Chandrika Jha Vs. State of Bihar** reported in **1984 SCC (2) 41**. The order passed by

the Hon'ble Minister came to be quashed and set aside.

12. So far as the judgments relied upon by the respondent No. 6 are concerned, the Hon'ble Apex Court in the case of **Dharam Singh (D) Thr. Lrs. & Ors.** (*supra*), considered that, the entry made by Patwari was not recorded pursuant to any order passed by any competent authority. The Patwari had no authority to enter the name of any person or confer any right. In that case, the dispute was of civil nature. Those can be challenged only on the ground that the same were taken fraudulently or surreptitiously. In that view the SLP came to be dismissed.

13. In the case of **Shri Nivruti G. Ahire** (*supra*), this Court held that, when the main application for review itself is not maintainable in law, no question of condonation of delay in filing such application would arise.

14. Considering all above position, in this case, what this Court noticed is that, all the authorities had rightly held that there was delay in preferring the first revision before the learned SDO. The order passed by the learned SDO was correct. The learned SDO had clearly observed that, the revision application is made after many years. There was even no application for condonation of delay. It was further held

that, the respondent's prayer was in respect of entries in revenue record as successor and for ownership right and the said does not come within the jurisdiction of learned SDO. The said finding was confirmed by the learned Additional Collector and by the learned Divisional Commissioner. The Hon'ble Minister had considered the entries without considering the aspect of delay. The order of allotment to Sahebrao Dhondiba by the Government in the year 1960 was considered. The Hon'ble Minister certainly has erred in going to that aspect when the main issue was entertainability of the revision by the learned SDO on the ground of delay. This main aspect is not considered by the Hon'ble Minister.

15. Considering all above, this Court has no hesitation in recording that, the Hon'ble Minister has committed an error in entertaining the revision and in setting aside the order passed by the learned Additional Divisional Commissioner, Nashik. One more factor that is brought to notice is that, the parties are now litigating before the Civil Court. It is therefore clarified that, this order shall be subject to outcome of the civil proceedings.

16. With this, the writ petition stands allowed in terms of prayer clause (B).

17. The writ petition stands disposed of .
18. Interim application, if any, also stand disposed of.

(KISHORE C. SANT, J.)

PS.B.