



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7090 OF 2014

1. Anna s/o Sadu Joshi,
Age : 40 years, Occu : Agri.,
R/o. Nipani Chincholi, Tq. Bhokardan,
Dist. Jalna
2. Appa s/o Kaduba Joshi,
Age : 35 years, Occu : Agri.,
R/o. Nipani Chincholi, Tq. Bhokardan,
Dist. Jalna
3. Sou. Kamlabai w/o Eaknath Joshi,
Age : 45 years, Occu : Household,
R/o. Nipani Chincholi, Tq. Bhokardan,
Dist. Jalna
4. Kaduba s/o Rakhmaji Joshi (**Died**)
Through L. Rs.
The Other L.Rs. i.e. Petitioner No. 2, 6 and 7
are also L. Rs. Of the deceased and as already
appeared in the proceedings the only remaining
L.Rs. Is brought herewith
- 4A. Ramdas s/o Kaduba Joshi (**Died**)
Through L.Rs.
- 4-Aa. Shantabai Ramdas Joshi
Age : 38 years, Occu : Household,
- 4-Ab. Dnyaneshwar s/o Ramdas Joshi
Age : 20 years, Occu : Agri,
- 4-Ac. Yogita d/o Ramdas Joshi
Age : 16 years, Occu : Education,
- 4-Ad. Raju s/o Ramdas Joshi
Age : 13 years, Occu : Education,
All R/o. Nipani Chincholi, Tq. Bhokardan,
Dist. Jalna

5. Nana s/o Sadu Joshi
Age : 35 years, Occu : Agri,
R/o. Nipani Chincholi, Tq. Bhokardan,
Dist. Jalna
6. Laxman s/o Kaduba Joshi
Age : 33 years, Occu : Agri,
R/o. Nipani Chincholi, Tq. Bhokardan,
Dist. Jalna
7. Shevantabai Kaduba Joshi
Age : 55 years, Occu : Household,
R/o. Nipani Chincholi, Tq. Bhokardan,
Dist. Jalna
8. Jagan s/o Kaduba Joshi
Since deceased through L.Rs.
- 8-a. Janabai w.o Jagan Joshi
Age : 55 years, Occu : Household,
- 8-b. Santosh s/o Jagan Joshi
Age : 40 years, Occu : Agri,
- 8-c. Laxmbai Jagan Joshi
Age : 35 years, Occu : Household,
- 8-d. Bala s/o Jagan Joshi
Age : 35 years, Occu : Household,
- 8-e. Sarla Jagan Joshi
Age : 32 years, Occu : Household,
All R/o. Nipani Chincholi, Tq. Bhokardan,
Dist. Jalna

.... **Petitioners**

Versus

1. The State of Maharashtra
Through Secretary Land Revenue Department
Mantralaya Mumbai
2. The Dy. Director of Land Record,
Aurangabad, Region Aurangabad

3. The District Superintendent of Land Record,
Jalna, Tq. & Dist. Jalna
4. Ramdas s/o Dagdu Misal
Age : 50 years, Occu : Agri,
R/o. Nipani Chincholi, Tq. Bhokardan,
Dist. Jalna

.... Respondents

.....

Advocate for Petitioners	: Mr. Arvind Tiwari with Adv. Mr. Shrimant Mundhe
Advocate for Respondent No. 4	: Mr. D. A. Mane
AGP for Respondent-State	: Ms. A. S. Mantri

CORAM : MANJUSHA DESHPANDE, J.

RESERVED ON : 12 FEBRUARY, 2025

PRONOUNCED ON : 05 MARCH, 2025

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JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard finally with the consent of parties.
2. The petitioners are challenging the order dated 28.07.2010 passed by the District Superintendent of Land Record, Jalna (hereinafter “DSLRL” for short) whereby the delay in filing the Appeal before the District Superintendent of Land Records, Jalna has been condoned as well as the order dated 23.05.2011 wherein the DSLR has passed an order allowing the appeal filed by respondent No. 4 herein by directing the Deputy Director of Land Record, Bhokardan,

Dist. Jalna to prepare a scheme for correction under Section 32(1) of The Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947 (hereinafter referred to as "Act of 1947") and submit it for sanction as per Section 32 of the Act of 1947.

3. Even the order dated 08.02.2013 passed by Deputy Director of Land Record, Aurangabad directing to carry out necessary corrections as provided under Section 31A of the Act of 1947, in respect of land at village Nipani Chincholi, Tq. Bhokardan, Dist. Jalna in Gat No. 184 and 185 and the notice issued pursuant thereto on 08.07.2014 has been challenged in the present writ petition.

4. It is the contention of the petitioners that they are holding land in Sy. No. 74/1, 74/2 and 75 at village Nipani Chincholi which was converted into Gat No. 183, 184 and 185. Initially, area of Sy. No. 74 was 29A-32G; Sy. No. 74/1 was 1A-20R; Sy. No. 74/2 was 28A-12R; and Sy. 75 was 25A-35R. The above lands were owned and possessed by one Ashruba Ragho Maratha. In the year 1955, the forefather of petitioners entered into an agreement to sale of the land and accordingly, registered sale-deed was executed between Ashruba Ragho Maratha and Maroti Rakhmaji Dhangar who is the forefather of petitioner. By executing sale-deed, the lands in Sy. No. 74/1 to the extent of 1A-20R; Sy. No. 75 to the extent of 25A-15R; and land in

Sy. No. 74/2 to the extent of 14A-6G was purchased by the forefather of the petitioners.

5. Pursuant to the execution of sale-deeds, the forefathers of the petitioners became owners of land to the extent of 41A-1G, they are cultivating the land since the year 1958. In the year 1970, the consolidation scheme was implemented in the village. So far as the petitioners are concerned, there was no change in their holding due to the consolidation scheme and the scheme was finalized on 22.02.1970.

6. It is contended by the petitioners that on 03.05.2007, respondent No. 4 has filed an application with the Jama Bandi Ayukt, Pune, seeking corrections in the land in Gat No. 183, 184 and 185 i.e. old Sy. No. 74/1, 74/2 and 75. Pursuant to the application, the measurement of the land was conducted by the Authorities on 08.08.2008. Thereafter, respondent No. 4 has filed Appeal on 04.08.2009 before the respondent No. 3 for correction in the area of land in Sy. No. 74 and 75. After filing an appeal, the respondent No. 4 has filed an application on 06.11.2009 for condonation of delay in filing the appeal wherein there is no satisfactory explanation for the delay.

7. It is the contention of the petitioners that the respondent

No. 3 did not possess powers to condone the delay. In spite of that, he has condoned the delay by order dated 28.07.2010. It is the contention of the petitioners that the proceedings for correction in consolidation scheme are governed by Section 31A and 32 of the Act of 1947. According to him, both the powers are required to be exercised by the Settlement Commissioner. However, in the present case, the powers are exercised by respondent No. 3 who is not the competent to exercise the powers, therefore, the order passed by respondent No. 3 suffers from jurisdictional error.

8. It is further contention of the petitioners that while exercising the powers, respondent No. 3 has exercised powers under Section 247 of the Maharashtra Land Revenue Code and allowed the appeal filed by respondent No. 4 by order dated 23.05.2011. While allowing the appeal, respondent No. 3 has passed an order directing to file a proposal for correction in the consolidation scheme under Section 32(1) of the Act of 1947.

9. Being aggrieved by the said order, petitioners as well as respondent No. 4 have filed separate Appeals before respondent No. 2 i.e. Deputy Director of Land Record, Aurangabad. The respondent No. 4 has withdrawn his appeal on 08.02.2013 while the appeal filed by the present petitioners was allowed by order dated 08.02.2013 and

the order passed by the DSLR directing to prepare the proposal under Section 32(1) for correction of scheme was quashed and set aside. In the same order, the respondent No. 2 has directed to carry out correction as per Section 31A of the Act of 1947 in respect of land Gat No. 184 and 185 situated at village Nipani Chincholi within the period of one month.

10. It is the contention of the petitioners that though their appeal has been allowed, the respondent No. 2 has exceeded his jurisdiction in passing the order directing to carry out correction as per Section 31(A) of the Act of 1947. It is further contended that the Dy.SLR, Bhokardan, has issued notice on 13.06.2013, about the proposed correction, whereby the respondent No. 4 was likely to get 14A-25R land with one Purnabai Bhimrao Milo from Gat No. 184.

11. The petitioners have raised objection, claiming that as per the sale-deed, the holdings of their land should be maintained. However, Dy.SLR, Bhokardan issued notice and submitted the proposed correction in the scheme on 02.06.2014. Thereafter, the respondents have prepared a corrigendum under Section 31A of the Act of 1947. It is the contention of the petitioners that, they are in possession of the suit land since 1955 by virtue of the agreement to sale and thereafter, since 1958 on the basis of registered sale-deed.

The petitioners state that considering that their valuable rights are at stake, they have challenged the order passed in the consolidation scheme before this Court.

12. It is further contended that respondent No. 4 has also filed Regular Civil Suit No. 120 of 2012 before the Civil Judge Junior Division, Bhokardan regarding land in Sy. No. 74 i.e. Gat No. 184 claiming ownership of 16H-26R land. The learned Advocate for petitioner, during the course of argument, has placed on record the copy of the decision rendered in R.C.S. No. 120 of 2012, wherein the suit filed by respondent No. 4 has been dismissed. According to him, respondent No. 4 has failed to make out a case hence, his suit has been dismissed by the Trial Court on 04.07.2017.

13. It is the contention of the petitioners that consolidation scheme of village Nipani Chincholi was finalised on 22.02.1970, while the respondent No. 4 has filed an application seeking correction of the scheme in the year 2007. Therefore, such a belated application after 37 years should not have been entertained. The Authority ought to have rejected his application for condonation of delay at the threshold itself for the huge delay occurred in approaching the authorities. It is his contention that though there is no limitation provided in the Act for variation of the scheme. In the catena of decisions of this Court, it

is held that the person claiming correction in the scheme should approach the authorities within a reasonable period, even though there is no limitation for variation of scheme in the Act of 1947, but it expected to be done within a reasonable period and such reasonable period is held to be three years from the finalization of scheme.

14. The learned Advocate for the petitioners has specifically raised two grounds while assailing the orders of the Authorities. His first objection is that – (1) The application / appeal has been filed by the respondent No. 4 by invoking provisions of the Maharashtra Land Revenue Code when the remedy is under the Bombay Prevention of Fragmentation and Consolidation of Holding Rules, 1959 (hereinafter “Rules of 1959”).

15. Learned Advocate has drawn my attention to the Appeal filed by respondent No. 4 before the DSLR wherein in the title of the appeal, it is stated that the appeal is filed under Section 247 of the Maharashtra Revenue Code. Hence, according to him, the relief claimed by the petitioners is under the Act of 1947.

16. On above background, learned Advocate is placing reliance on the order dated 07.01.2019 of this Court passed in **Writ Petition No. 11146 of 2014 (Mukesh Anandrao Bhosale & Ors. Vs. District Superintendent of Land Records)** wherein this Court has

taken a view that the power to examine the legality and propriety of orders passed by any officer under Maharashtra Prevention of the Fragmentation and Consolidation of Holdings Act, is vested with Settlement Commissioner. Instead of filing an appeal under the provisions of Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, the respondent had filed an appeal under Section 247 of Maharashtra Land Revenue Act which was entertained by the District Superintendent of Land Records after condoning the delay of 45 years. The order passed by DSLR has been quashed and set aside on the ground of jurisdictional error.

(2) The other objection raised by the petitioners is regarding the delay that has occurred in filing the complaint by respondent No. 4.

17. It is the contention of the petitioners that though it is admitted fact that there is no limitation prescribed under the Act of 1947 for variation of scheme or for making corrections, however, it is settled position of law which can be gathered from catena of decisions that, when there is no prescribed period for limitation provided in the Act, the aggrieved party has to approach the Court Authority within a reasonable period and that reasonable period is within three years.

18. Learned Advocate for the petitioners places reliance on

various judgments. He relies on **Gulabrao Bhaurao Kakade Vs. Nivrutti Krishna Bhilare and ors. [2001 (Supp.) Bom. C.R. 688]** wherein it is held that the reasonable time would depend on facts of each case but ordinarily, exercise of such powers after three years from finalization of the scheme may not be justified and the delay of 15 years in approaching the Authorities was held to be grossly unjustified.

19. Learned Advocate for petitioner further relies on **Dattu Appa Patil and Ors. Vs. State of Maharashtra [2006 (6) Bom. C. R. 246]**, the Division Bench of this Court has taken a view that the exercise of powers by Consolidation Officer after 27 years, is totally unjustified and on that ground alone, the order was set aside.

The learned Advocate for petitioner contends that in the present case, the delay of 37 years condoned by the DSLR has not been satisfactorily explained in the application, for condonation of delay. The only reason is given in the application is that when the consolidation scheme was finalised, the legal heirs of Dagadu Misal were minor. Therefore, they could not approach the appropriate authority within time, for seeking necessary correction in the gat numbers.

20. Per contra, Mr. D. A. Mane, learned Advocate for

respondent No. 4 submits that the land in question was owned by one Dagadu Tatya Misal, the applicant Ramdas Dagadu Misal is the legal heir of Dagadu Tatya Misal. The contents of his application addressed to the Settlement Commissioner, Pune dated 03.05.2007, states that when the scheme was finalized in village Nipani Chincholi of Bhokardan Tahsil, Dist. Jalna, the land belonging to Dagadu Misal from Sy. No. 74/1 and 74/2 to the extent of 14A-25G was converted in Gat No. 184. Dagadu Misal was owner of 21A-7G land, while the survey number was converted into gat number, his land was divided into two different gats and land to the extent of 13A-22G was shown in Gat No. 183 and rest all the land of 14A-25G was shown in Gat No. 184, as a result of which there was reduction in total holding.

21. During the formation of Gat No. 184, land belonging to Dagadu Misal to the extent of 14A-25G is wrongly shown in Gat No. 184 and Dagadu Misal has expired in the year 1971-72. Therefore, in order to raise objections, there was no responsible person available in the family of Dagadu Misal. Therefore, they could not raise objection within limitation.

22. After filing of the application before the Settlement Commissioner on 03.05.2007, respondent No. 4 has filed an appeal before the Superintendent of Land Record, Jalna on 04.08.2009 in

which he has claimed correction in the Gat No. 183, 184 and 185 since his land to the extent of 14 Acre was wrongly shown in Gat No. 184. He has also filed an application for condonation of delay on 06.11.2009, the reason for delay has been satisfactorily explained in the application. Since the legal heirs of the original owner Dagadu Misal were minor at the time of implementation of scheme, after attaining majority, they have filed applications seeking corrections in the area in the gat numbers.

23. It is his contention that after taking into consideration the satisfactory explanation given by the respondent No. 4, the application for condonation of delay has been allowed by the DSLR.

24. In the order, it is observed by the DSLR that after going through the record, it transpires that appellant had filed an application before the Deputy Director of Land Record which was forwarded to the Taluka Inspector of Land Record, Bhokardan, and thereafter, it was placed before the DSLR. The application for condonation of delay has been allowed by the DSLR vide order dated 28.07.2010 on the ground that if the appeal is decided on merits by condoning the delay, it is not going to cause any prejudice to any of the parties.

25. It is the contention of the learned Advocate for the

respondent No. 4 that though the application for condonation of delay has been decided by the DSLR on 28.07.2010, the petitioners have not challenged the order of condonation of delay. After the application for condonation of delay has been allowed, the appeal was decided by order dated 23.05.2011. The petitioners had not taken any steps to assail the order of condonation of delay.

26. According to the learned Advocate for respondent No. 4, in the appeal, directions have been given to the Dy.SLR to prepare a proposal for correction of the consolidation scheme according to the measurement conducted on 08.08.2008.

27. The learned Advocate for respondent No. 4 submits that though the order passed in the appeal did not issue any directions in his favour to carry out correction in the scheme, the petitioners herein have preferred appeal against the said order dated 23.05.2011 before the Deputy Director of Land Record, Aurangabad and from title of order it can be gathered that it is filed by invoking the provisions of Section 247 of the Maharashtra Land Revenue Code.

28. In the Appeal, the Deputy Director, after perusal of record, has come to the conclusion that after perusal of record, there appears change in the ownership in the Sub-Division, they are the clerical mistakes that have occurred during consolidation scheme,

therefore, it is necessary to issue corrigendum under Section 31-A of the Act of 1947. Hence, he has issued directions under Section 31-A for carrying out corrections by his order dated 08.02.2013.

29. It is further contended by respondent No. 4 that in pursuance of the order passed by the Deputy Director of Land Record, the notices were issued to the petitioner and after issuing the notices, the order has been passed by issuing a corrigendum and entries to that effect have already been taken on 08.02.2013 by carrying out necessary corrections. Hence, the order passed has been implemented by the Deputy Director of Land Record, Aurangabad.

30. As far as the objection regarding the powers to be exercised by the Settlement Commissioner with regard to the Section 31(1) of the Act of 1947 is concerned, learned Advocate relies on the order dated 17.12.2016 passed by this Court in **Writ Petition No. 2967 of 2017 (Vitthal Nana Kokane Vs. The State of Maharashtra)** wherein in para 11, this Court has referred to the circular dated 05.02.2000. Pursuant to the circular, the powers of Settlement Commissioner under Section 31-A are delegated to the Deputy Director of Land Record who in turn has further delegated it to the District Superintendent of Land Record. There is a further reference to the circular dated 31.08.2001 issued under Section 34 of the Act,

whereby the powers of Settlement Commissioner after delegation were to be exercised by Deputy Director of Land Record.

31. Hence, in view of the circular issued by the Government, whereby the powers of Settlement Commissioner are delegated to Deputy Director of Land Record and District Superintendent of Land Record, the objection of the petitioners has no substance. It is further contended by the Advocate for respondent No. 4 that though in the title of the order there is a reference to Section 247 of Maharashtra Land Revenue Code, however, the relief claimed as well as the Authority concerned, who had passed the orders are both under the special enactment i.e. Bombay Prevention of Fragmentation and Consolidation of Holdings Rules, 1959. Mere reference in the title does not change the forum to which the respondent No. 4 has approached which is provided under the special enactment itself. The relief claimed and the authorities to whom respondent No. 4 has approached is undoubtedly under the Bombay Prevention of Fragmentation and Consolidation of Holdings Rules, 1959. Therefore, the objection raised by the petitioners does not deserve consideration.

32. Learned Advocate for respondent No. 4 further relied on order dated 12.10.2023 passed by this Court in **Writ Petition No. 8737 of 2021 (Tulshiram Shivram Dhondkar and Ors. Vs. The State of**

Maharashtra and Ors.) wherein this Court has further referred to the order dated 23.03.2001 passed in **Gulab Bhaurao Kakade Vs. Nivrutti Krishna Bhilar and others reported in 2001(4) Mh.L.J. 31** wherein the consolidation scheme which was finalized in the year 1973, was varied by Settlement Commissioner in the year 1988, since the procedure prescribed under the Act of 1947, was not followed. In spite of delay of 15 years, the order which was assailed in the writ petition has been set aside.

33. Learned Advocate for the respondent No. 4 further relies on the judgment of **Limbraj Waman Yede Vs. State of Maharashtra and Ors. 2004(4) Bom. C.R. 945**, this Court has relied on the judgment of **Gulabrao Kakade Vs. Nivrutti Bhilare** (supra). Relying on the said judgment, this Court has held that though the Settlement Commissioner has powers of correction as well as for making suitable variations in the scheme after following due procedure of law, the aggrieved party did not move the Settlement Commissioner for correction of clerical mistake in the consolidation scheme. Instead of approaching the Settlement Commissioner, the aggrieved party has moved the respondent No. 2 who was not the Competent Authorities to carry out such corrections in the record and vary the scheme. The action was held to be illegal and arbitrary and therefore, the order has been set aside. Therefore, this judgment which is cited by respondent

No. 4 is of no assistant to him.

34. I have heard respective parties, the issues which are raised by the petitioners are limited to the extent of delay in approaching Authority for making necessary corrections and invocation of provisions under the Maharashtra Land Revenue Code, when the appropriate remedy available is provided under the Bombay Prevention of Fragmentation and Consolidation of Holdings Rules, 1959.

35. In the background of the facts of the case, the petitioners have raised two objections – (1) The orders passed by the DSLR and Dy. Director of Land Records are without jurisdiction since the relief which was claimed is under the provisions of the Act of 1947 and the orders are passed by the Authorities under the Maharashtra Land Revenue Code. (2) The orders passed by the DSLR and Dy. Director of Land Records by condoning the delay of 37 years, are neither permissible nor maintainable in view of various judicial pronouncements of this Court.

36. So far as the objections raised by the petitioners to the impugned orders are concerned, the issue of delay is required to be considered at the threshold. If this Court comes to the conclusion that the order condoning the delay in filing the appeal is appropriate and

valid. The maintainability of proceedings under the Maharashtra Land Revenue Code will need consideration. So far as the issue of delay in filing the proceedings is concerned, it is not in dispute that the application is filed by the respondent No. 4 to the Settlement Commissioner on 03.05.2007. In the application, the respondent No. 4 has categorically stated that the settlement scheme was finalized on 22.02.1970. Therefore, there is delay of 37 years in filing the application before the Settlement Commissioner.

37. The application for condonation of delay in the proceedings before the DSLR, Jalgaon was filed by the respondent No.4 on 06.11.2009 and the application was decided on 28.06.2010. Though the petitioner herein has not challenged the order passed on application for condonation of delay, he has challenged the order passed by the Dy. SLR, Aurangabad before the Deputy Director of Land Records wherein he has specifically raised objection regarding the delay of 33 years occurred in filing the appeal as well as the order dated 28.07.2010 condoning the delay in filing the appeal, without any satisfactory explanation.

38. The application seeking correction in scheme was filed on 03.05.2007. The consolidation scheme was finalized in the village on 22.02.1970. Therefore, after a long slumber of 37 years, the

application was filed to the Settlement Commissioner on 03.05.2007, seeking correction in land Gat No. 183, 184 and 185. Though the appeal was allowed by the DSLR by order dated 23.05.2011, however, the order was modified, by the Dy. Director of Land Records vide order dated 08.02.2013, giving directions to carry out corrections as per Section 31-A of the Act of 1947. Though the application for condonation of delay is allowed by the Dy. SLR vide order dated 28.06.2010, the same is contrary to the judicial pronouncement of this Hon'ble Court in **Jalindar Sadashiv Hirde and Others Vs. The State of Maharashtra and Others 2018 DGLS (Bom.) 59** wherein this Court has framed an issue in paragraph No. 6 which reads thus :

“6. In so far as the second issue pertaining to limitation is concerned, it requires no debate that Section 31-A does not prescribe any limitation. However, the learned Division Bench of this Court in the matter of [Gulabrao Bhaurao Kakade Vs. Nivrutti Krishna Bhilare and others](#) [2001(Supp. 1) Bom.C.R. 688 : 2001(4) Mh.L.J. 31], has concluded that after taking into account the various provisions of the 1947 Act, a prayer for correction in the scheme only to be done by the Settlement Commissioner, can be permitted within a reasonable period. While dealing with the facts in the Gulabrao's case (supra), it was concluded that when the consolidation scheme was finalized in 1973, ordinarily, exercising the power under Section 31-A, after three years, may not be permissible and justified under Section 32. It was, therefore, held, on the facts, that the Settlement Scheme of 1973 cannot be disturbed in 1988, notwithstanding whether it suffers any clerical or arithmetical errors.

39. In view of the law laid down by this Court, it settled position of law that though no limitation is provided either under Section 32 for variation of scheme or under Section 31-A of the Act of 1947. The application / complaint is required to be made within a reasonable period, and that reasonable period is held to be three years.

40. The view taken by this Court in **Gulabrao Baburao Kakade** (cited supra), has been followed by another Division Bench judgment of this Court in **Suresh Bapu Sankanna and Ors. Vs. The State of Maharashtra and Ors. reported in 2018(7) ALL MR 302**. It is held that even if no specific period prescribed in Section 32 of the said Act, as regards limitation, an application for modification or correction of finalized consolidation scheme can be made only within 3 years of such finalization of the scheme.

41. It is observed that, limitation is a matter of public policy, which lays down that stale claims cannot be agitated, an aggrieved person has to raise his grievance within a particular time limit. The Hon'ble Court has relied on the observations made by the Hon'ble Supreme Court in case of **Pundlik Jalam Patil (Dead) by LR's Vs. Executive Engineer, Jalgam Medium Project and Anr. (2008)17 SCC**

448, wherein the basic reason for laying down period and limitation have been summarized, which have been reproduced in para 19 of the judgment which reads thus :

*“19. In **Rama and Ors. v. Rewa Coalfields Ltd., AIR (1962) F SC 361**, this court held that: "in construing Section 5 of the - Limitation Act; it is relevant to bear in mind two important considerations. The first consideration is that the expiration of period of limitation prescribed for making an appeal gives rise to right in favour of the decree holder to treat the decree as binding between the parties and this legal right which has accrued to the decree holder by lapse of time should not be light heartedly disturbed. The other consideration which cannot be ignored is that if sufficient cause of excusing delay is shown discretion is given to the court to condone the delay and admit the appeal. 'It is further necessary to emphasis that even if the sufficient cause has been shown a party is not entitled to the condonation of delay in question as a matter of right. The proof of a sufficient cause is a condition precedent for the exercise of the discretionary jurisdiction vested in the court by section This aspect of the matter naturally introduces the consideration of all relevant facts and it is at this stage the diligence of the party of its bona fides may fall for consideration." On the facts and in the circumstances, we are of the opinion that the respondent beneficiary was not diligent in availing the remedy of appeal. The averments made in the application seeking condonation of delay in filing appeals do not show any acceptable cause much less sufficient cause to exercise courts' discretion in its favour.”*

42. Thus, it is clear that, the aggrieved persons have to raise his grievance within a reasonable period even if there is no period of limitation prescribed in the Act.

43. The application filed by respondent No. 4, on 03.05.2007, after the finalization of scheme on 22.02.1970, suffers from inordinate delay and latches. Since the application filed by the respondent No. 4 was barred by limitation, the entire exercise of the State Authorities was without jurisdiction. Hence, the orders passed by the State Authorities without jurisdiction cannot be sustained. Once it is held that the order passed by the State Authorities are without jurisdiction, the other issue about availing the wrong remedy would not survive. Therefore, on that ground alone, the writ petition deserves to be allowed and the order (**Exh. G**) dated 28.07.2010, condoning the delay in filing the appeal for correction in the scheme, the order (**Exh. H**) dated 23.05.2011 passed by DSLR allowing the appeal No. क्रमांक/एकत्री/अपील/एस.आर.८१७/१२, order (**Exh. I**) dated 08.02.2013 passed by the Dy. Director of Land Records, directing correction in record under Section 31(A) of the Act of 1947 and the consequential correction made in the record, are quashed and set aside.

44. Accordingly, writ petition is **allowed** in terms of prayer Clause 'C'. Rule made absolute in above terms.

[MANJUSHA DESHPANDE, J.]

45. After pronouncement of the judgment, learned Advocate for the respondent makes a request that the implementation of the judgment and order may kindly be stayed. Hence, considering the request made by the learned Advocate for respondent, the operation and implementation of the order shall be stayed for a period of four weeks from today.

[MANJUSHA DESHPANDE, J.]

Omkar Joshi