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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8344 OF 2017

Kaka Ravaji Zhambare, since
deceased through his LRs ... Petitioners

V/s.

District Superintendent of land
records & Ors. ... Respondents

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GANESH
KULKARNI

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Mr. Pramod G. Kathane with Mr. Amol Ghunde for the
petitioners.

Mr. R.S. Pawar, AGP for the State.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 10, 2025

P.C.:

1. This writ petition challenges an order passed by the District Superintendent of Land Records, Sangli, wherein a delay of forty-eight years was condoned in filing an appeal against proceedings undertaken under the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947. After a meticulous examination of the entire record and the applicable statutory framework, this Court is constrained to render the following observations and conclusions:

2. It is submitted and duly noted that the crux of the present petition lies in the impugned order of the District Superintendent

of Land Records, Sangli, which condoned an inordinate delay of forty-eight years in instituting an appeal. Such an unprecedented delay, the Court is of the considered view, undermines the very principles of procedural regularity and statutory finality that govern the execution of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947. The concession of such a protracted delay warrants scrupulous judicial inquiry, particularly when the statutory scheme demands expeditious redressal and adherence to established time frames.

3. The record unequivocally establishes that the consolidation scheme was implemented in the year 1965. Pursuant to the provisions of the said scheme, the names of the petitioners were duly entered into the revenue records by virtue of mutation entry Nos. 2955 and 2956, effected on 22nd December 1965. This entry, executed in strict compliance with the statutory requirements, stands as an authoritative and conclusive record of the petitioners' rights. The procedural sanctity of these records is further accentuated by the inherent legal principle that such entries confer notice upon the parties concerned.

4. Notwithstanding the procedural regularity of the initial entries, respondent Nos. 4 to 8 purportedly challenged the mutation entries dated 22nd December 1965 in the year 2011. The Appellate Authority, in the impugned order, permitted the appeal on the basis that respondent Nos. 4 to 8 availed themselves of the alleged illegality only in 2011. However, this rationale is critically flawed in that it overlooks the legal effect of the revenue records. The entries made in 1965, by their very nature, operate as

constructive notice under the relevant legal provisions, and any challenge thereto must be premised on the timely recognition and contestation of such notice.

5. The contention advanced by the respondents, which predicates the condonation of a forty-eight-year delay on the alleged discovery of irregularities only in 2011, is untenable when measured against the statutory backdrop. It is a settled principle that entries in the revenue records constitute notice under Section 3 of the Transfer of Property Act, 1882. The effect of such notice is to bind the parties, thereby precluding any attempt to re-litigate matters that have been conclusively recorded. In light of this, the reasoning adduced by the Appellate Authority to justify condoning the delay fails to find support in either statute or judicial precedent, rendering it unsustainable and legally untenable.

6. In view of the foregoing, this Court finds that the reasons for condoning a forty-eight-year delay, as tendered by the Appellate Authority, are not tenable in law. The statutory mechanism that renders revenue record entries as effective notice under Section 3 of the Transfer of Property Act, 1882, precludes the acceptance of such a delay. Accordingly, the impugned order must be set aside.

7. It is, therefore, ordered that the writ petition is allowed, and the rule is made absolute in terms of prayer clause (b).

(AMIT BORKAR, J.)