

Shabnoor

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.10735 OF 2017

Murlidhar Shankar Masal ... Petitioner
V/s.
Bhaskar Baburao Khandekar & Ors. ... Respondents

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Mr. Ramdas Hake a/w Atharav Nalaade i/b Sanjeev Kadam,
for petitioner.

Mr. Machhindra A. Patil, for respondent No.1.

Mrs. V. S. Nimbalkar, AGP for State – respondent Nos.6 to 9.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 18, 2025

P.C.:

1. The present writ petition is filed under Article 226 of the Constitution of India challenging the order passed by respondent No.8, whereby respondent No.8 has allowed the correction of an entry in the scheme prepared by the Authorities under the provisions of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947 (hereinafter referred to as "the Act"). The said correction has been purportedly made in exercise of powers conferred under Section 31A of the Act.

2. The facts leading to the filing of the present petition are as follows:

The process of consolidation of holdings in Village Shetphal (Tapkiri) was completed in the year 1967-68. Respondent

No.1 has contended that land admeasuring 4 Acres and 12 Gunthas was erroneously recorded in his name instead of 5 Acres and 37 Gunthas, resulting in an excess of 1 Acre and 25 Gunthas being recorded in the name of the petitioner. Aggrieved by the alleged error, respondent No.1 filed a revision application before the Superintendent of Land Records on 29 August 2005, disputing the entries originally made on 31 May 1944 and subsequently confirmed on 28 March 1968.

3. Despite the substantial lapse of over fifty years, the Superintendent of Land Records entertained the revision and proceeded to cancel the entries of 31 May 1944 and 28 March 1968. Aggrieved by this order, the petitioner preferred an appeal before the Deputy Director of Land Records, Pune Division, Pune, who, after due consideration, allowed the appeal and set aside the order of the Superintendent of Land Records by his decision dated 31 May 2010. Respondent No.1, being dissatisfied with the appellate order, filed a revision before respondent No.8, who, by the impugned order, allowed the revision and confirmed the order passed by the Superintendent of Land Records.

4. A plain reading of the application submitted by respondent No.1 reveals that the said application was purportedly filed under Section 31A of the Act, which empowers the Authorities to correct clerical and arithmetical errors while preparing the scheme. However, the substantive power to modify or make substantial changes in the scheme is vested in the Authorities under Section 32(1) of the Act. The distinction between the scope of power

under Section 31A and Section 32(1) is well delineated in judicial precedents. It is a settled principle of law that while Section 31A is confined to rectifications of errors of a clerical or arithmetical nature, any significant or substantive alteration must necessarily be carried out under the express provisions of Section 32(1) of the Act, which entails a more detailed procedure and safeguards to protect vested rights.

5. This Court has consistently taken the view that the powers under Sections 31A and 32(1) of the Act must be exercised within a reasonable time. The Division Bench of this Court, in *Suresh Bapu Sankanna & Ors. v. State of Maharashtra & Ors.*, 2018 (4) Mh.L.J. 331, has explicitly held that, in the absence of a specific statutory period, the reasonable time for exercising such powers is three years. The Court emphasized that permitting modifications beyond such reasonable time would lead to legal uncertainty and unsettle the rights of the landholders, which would be contrary to the object and scheme of the Act.

6. In the present case, the revision filed by respondent No.1 was entertained after a period of over five decades. Such an extraordinary delay, without any cogent justification, renders the exercise of jurisdiction by respondent No.8 unsustainable in law. The principle of finality of proceedings, which is integral to land consolidation schemes, stands defeated if such belated revisions are permitted. Allowing such corrections after an inordinate delay would lead to serious repercussions on property rights and disturb the settled position of land records. The Supreme Court in *State of Gujarat v. Patel Raghav Natha*, (1969) 1 SCC 335, has underscored

the importance of exercising revisional jurisdiction within a reasonable period, holding that undue delays in revising settled entries would result in grave prejudice to the affected parties.

7. Furthermore, the order impugned suffers from a jurisdictional infirmity as respondent No.8 has exercised powers beyond the scope of Section 31A. As noted earlier, clerical and arithmetical errors can be rectified under Section 31A, but modifications having substantive effects on ownership and title require recourse to Section 32(1), which was not followed in the present case. The failure to adhere to statutory limitations and the principles of finality vitiates the impugned order, making it unsustainable in law.

8. The Co-ordinate Bench of this Court in the case of *Aluwid Architectural Private Limited & Ors. v. Housabai Jagannath Gavhane & Ors.*, reported in 2023 SCC OnLine Bom 2133, has applied the said analogy even in cases concerning compliance under Section 31A of the Act. The said judgment underscores the necessity of exercising such powers within a reasonable timeframe and preventing any undue disturbance to settled rights. In the present case, the petitioner has rightly raised a grievance regarding the exercise of power after fifty years from the finalization of the consolidation scheme. Any interference at such a belated stage would render the settled rights of parties uncertain and arbitrary. Hence, the impugned order is legally unsustainable and cannot be sustained.

9. Rule is, therefore, made absolute in terms of prayer clause (b). The impugned order is quashed and set aside, thereby restoring the finality of the consolidation scheme as implemented.

10. It is, however, clarified that respondent No.1 shall not be precluded from ventilating his civil rights, if available, by adopting proceedings which are permissible in law, subject to the applicable legal provisions governing such claims.

11. No costs.

(AMIT BORKAR, J.)