

VRJ

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14015 OF 2023

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Dayaram Sahebrao Thengil & Ors. ... Petitioners

V/s.

State of Maharashtra,
Through The Principal Secretary,
Revenue & Forest Department & Ors. ... Respondents

Mr. Abhijit B. Kadam with Mr. Ashish A. Chavan for the
petitioners.

Mr. P. V. Nelson Rajan, AGP for the State-respondent
Nos.1 to 5.

Mr. Nikhil Wadikar with Ms. Sweta Pandey & Kastur
Patil for respondent No.6.

CORAM : AMIT BORKAR, J.

DATED : MARCH 19, 2025

P.C.:

1. **Rule.** Rule is made returnable forthwith.

2. The challenge in the present writ petition, filed under Articles 226 and 227 of the Constitution of India, is directed against the order passed by the Deputy Superintendent of Land Records, Phaltan, District Satara, in the exercise of powers conferred under Section 32(1) of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947. By the impugned order, the said authority has condoned an inordinate delay of 29 years in challenging the consolidation scheme, which

was duly executed in the year 1979-1980 in respect of land bearing Gat Nos.191, 219, 220, and 211 of village Jadhav Wadi, Taluka Phaltan, District Satara, upon an application preferred by Respondent No. 6.

3. Upon a meticulous perusal of the impugned order, it is evident that the authority has condoned the delay of more than 29 years solely on the premise that Respondent No. 6 has made out a prima facie case on merits, and, therefore, the claim of the petitioners could not be non-suited on the ground of delay. However, such reasoning is legally untenable, as it overlooks the well-settled principles governing the exercise of discretion while condoning delay. The authority has failed to record any specific finding on the existence of "sufficient cause," which is a sine qua non for condonation of delay under Section 5 of the Limitation Act, 1963. It is trite law that mere existence of a prima facie case on merits cannot, by itself, constitute a sufficient ground for condoning an extraordinary delay, particularly when the statutory scheme mandates finality to consolidation proceedings within a reasonable period. The approach adopted by the authority in condoning the delay is, therefore, contrary to settled legal principles and the scheme of the enactment.

4. The position of law governing the exercise of power under Sections 31(a) and 32 of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947, is no longer res integra. A Division Bench of this Court, in the case of *Gulabrao Bhaurao Kakade vs. Nivrutti Krishna Bhilare*, 2001 (4) Mh.L.J. 31, has categorically held that any illegality or irregularity

in the finalization of a scheme under the provisions of the Act must be assailed within a reasonable period. The Court has further observed that the scheme of the Act contemplates finality to consolidation proceedings and, in that context, a reasonable period for questioning the scheme should not ordinarily extend beyond three years. The rationale behind this judicial pronouncement is rooted in the principle that consolidation of holdings is a legislative measure aimed at ensuring agricultural efficiency and economic viability, and allowing belated challenges to settled schemes would not only unsettle rights but also defeat the very object of the legislation.

5. In the present case, the authority has condoned the delay solely on the ground that Respondent No. 6 has a meritorious case, without recording any finding as to the existence of "sufficient cause" for such an extraordinary delay of 29 years. It is a settled proposition of law that delay cannot be condoned in a routine or mechanical manner, particularly when the statutory framework envisages finality to consolidation proceedings within a reasonable time frame. The impugned order, having been passed in derogation of these settled principles, is legally unsustainable and warrants interference. Consequently, the order condoning the delay deserves to be quashed and set aside.

6. Rule is made absolute in terms of prayer clause (b).

7. Pending interlocutory application(s), if any, stand disposed of.

(AMIT BORKAR, J.)