

Ashish

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

WRIT PETITION NO.471 OF 2025

Savala Mahadu Bombe ... Petitioner
V/s.
Mukta Mahadu Bombe deceased,
through L. Hrs. & Ors. ... Respondents

Mr.Pramod Pawar for the Petitioner.

Mr.Uday Nighot, a/w Niraj Kate, Sulajja Patil for
Respondent Nos.1A to 1B.

Mr.S.d. Rayrikar, AGP for State- Respondent Nos.2 to 4.

CORAM : AMIT BORKAR, J.

DATED : MARCH 18, 2025

P.C.:

1. The present writ petition assails the legality, validity, and propriety of the order dated 14/10/2024, passed by respondent No.4, whereby the appeal preferred by respondent Nos.1A and 1B has been allowed, resulting in the setting aside of the order condoning delay and the consequential rectification of the record under the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 (hereinafter referred to as "the said Act").

2. Upon a meticulous perusal of the record, it is evident that the petitioner had preferred an application under Section 31(A) of the said Act, seeking rectification of an alleged clerical error in the

scheme finalized and implemented in the year 1979. The petitioner contended that the said error had caused discrepancies in the land records. The competent authority, exercising jurisdiction under the said Act, directed the petitioner to avail the remedy of an appeal. Accordingly, the petitioner filed Consolidation Appeal No.49 of 2016 before the Appellate Authority. The Appellate Authority, by its order dated 14/08/2017, allowed the said appeal, condoned the delay, and directed rectification of the consolidation scheme records. Aggrieved by this order, the respondent preferred a revision before respondent No.4, which was dismissed by an order dated 13/12/2018.

3. Thereafter, respondent Nos.1A and 1B invoked the writ jurisdiction of this Court by filing a writ petition, wherein this Court, by its reasoned judgment, allowed the petition and remanded the matter to the Appellate Authority. The Appellate Authority was directed to reconsider the application for condonation of delay, treating the application dated 07/01/2014 as an application under Section 31(A) of the said Act. In compliance with the directions of this Court, the Appellate Authority, vide its judgment and order dated 25/01/2014, condoned the delay. The said order was again challenged by respondent Nos.1A and 1B before respondent No.4 in a revision petition. Respondent No.4, by the impugned order, allowed the revision and set aside the condonation of delay, inter alia, on the ground that the delay of 35 years was inordinate and could not be condoned in the absence of a legally justifiable explanation. Aggrieved thereby, the petitioner has preferred the present writ

petition.

4. Upon a careful scrutiny of the application for condonation of delay, it is apparent that the sole ground urged by the petitioner to justify the inordinate delay of 35 years was his alleged lack of knowledge regarding the implementation of the consolidation scheme. However, such an explanation, in the considered opinion of this Court, is wholly untenable. The scheme formulated and implemented under the provisions of the said Act results in changes being duly reflected in the revenue records, including the 7/12 extract, which is a vital document evidencing possession. Such an entry in revenue records operates as constructive notice under Section 3 of the Transfer of Property Act, 1882. The petitioner, therefore, cannot claim ignorance of such entries for an extended period of over three decades. The Revisional Authority has rightly rejected the explanation tendered by the petitioner and has correctly held that condoning an extraordinary delay of 35 years, on the sole ground of the petitioner's alleged ignorance, would not be in consonance with the settled principles of law.

5. Furthermore, judicial pronouncements of both Division Benches and co-ordinate Benches of this Court have consistently held that the power under Section 31(A) of the said Act must be exercised within a reasonable time frame, which should ordinarily not exceed three years from the date of the finalization of the scheme. In the instant case, the delay extends far beyond the permissible limit, and no exceptional circumstances have been demonstrated to warrant a departure from the settled legal position. This Court, therefore, finds no infirmity in the reasoning

adopted by respondent No.4 in the impugned order.

6. In view of the foregoing discussion, this Court is satisfied that respondent No.4 has exercised its jurisdiction in accordance with law by refusing to condone the delay of 35 years in invoking Section 31(A) of the said Act. The challenge to the impugned order is devoid of merit, and no case for interference under Article 226 of the Constitution of India is made out.

7. Consequently, all consequential orders passed in furtherance of the delay condonation, including the rectification directed by the authorities under the said Act, stand cancelled. The present writ petition is accordingly dismissed, with no order as to costs.

(AMIT BORKAR, J.)