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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3951 OF 2025

Baliram Paddu Bagat (since deceased through his legal heirs) Smt. Gulabbai Baliram Bhagat .. Petitioner

Versus

State of Maharashtra and Ors. .. Respondents

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- Mr. Harshad Sathe a/w Mr. Saurabh Butala i/by Mr. Govind Mundhe, Advocates for Petitioner.
- Mr. O.A. Chandurkar a/w. Ms. S.D. Chipade, AGPs for Respondent – State.
- Mr. Anand Waradkar a/w Akash Kotecha i/by Navin Dhongadu, Advocates for Respondent No.8 and 9.

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CORAM : MILIND N. JADHAV, J.

DATE : NOVEMBER 25, 2025.

P.C.:

1. Heard Mr. Sathe, learned Advocate for Petitioner and Mr. Chandurkar, learned AGP for Respondent – State and Mr. Waradkar, learned Advocate for Respondent Nos.8 and 9.

2. The present Writ Petition assails the judgment and order dated 14.01.2025 passed by Respondent No.2 i.e. Additional Divisional Commissioner, Konkan Division in Revision Application No.734 of 2024 whereby the Revision Application filed by Respondent Nos.7 to 8 was allowed and delay of 64 years was condoned.

3. The facts germane to the present case are as follows:-

3.1. The dispute is between brother and his sister through their

legal heirs with respect to Mutation Entry No.585 dated 24.02.1958 in respect of suit land bearing (old Survey No.124/0) and new Survey No.128/0 admeasuring 0.82.72 H.R. situated at village Nerepada, Taluka Panvel, District Raigad (hereinafter referred to as '**suit land**').

3.2. The suit land was originally owned by Paddu Mahadu Bhagat who expired in the year 1958. Pursuant thereto by Mutation Entry No.585 name of Baliram Paddu Bhagat was recorded.

3.3. It is Petitioner's case that in the year 1983, Baliram transferred his right in favour of his wife by executing necessary documents and thereafter Petitioner's name was mutated by Mutation Entry No.1593 in the Revenue Record and it so continued in the Revenue Record and she was in possession of the suit land. It is Petitioner's case that in the year 1983 Devika Paddu Bhagat alias Subhadra Shantaram Mali (Baliram's sister) did not challenge the Mutation Entry until her demise in the year 2009. It is Petitioner's case that on 07.09.2022 i.e. only after 64 years the legal heirs of Devika Paddu Bhagat i.e. Respondent Nos.7 to 9 initiated the present RTS proceedings.

3.4. By order dated 07.08.2023, Sub-Divisional Officer after hearing both the sides rejected the delay condonation Application filed by Respondent Nos.7 to 9. Being aggrieved, Respondent Nos.7 to 9 challenged the order dated 07.08.2023 before the Additional Collector,

Raigad by filing Appeal No.91 of 2024.

3.5. By order dated 30.07.2024, Additional Collector, Raigad dismissed the Appeal No.91 of 2024 and confirmed the order passed by the Sub-Divisional Officer. Being aggrieved, Respondent Nos.7 to 9 challenged the said order by RTS Revision Application No.734 of 2024 before Additional Divisional Commissioner, Konkan Division.

3.6. By order dated 14.01.2025, Additional Divisional Commissioner , Konkan Division allowed the RTS Revision Application and quashed and set aside the orders passed by SDO and Additional Collector, Raigad and cancelled the Mutation Entry No.585 and 1593 in respect of suit land.

3.7. Hence, being aggrieved by order dated 14.01.2025 passed in RTS Revision Application No.734 of 2024, Petitioner has filed the present Writ Petition.

4. Mr. Sathe, learned Advocate for Petitioner would submit that the proceedings initiated by Respondents are founded on erroneous premise and are clearly barred by limitation. He would submit that Respondents approached the Authorities to challenge the Mutation Entries after an unexplained delay of 64 years without placing on record any substantial or cogent material / reason for such delay. He would submit that there exists a clear dichotomy in the description of the Survey Number of the suit land in Appeal filed by Respondent

Nos.7 to 9 which creates ambiguity regarding the identity of the suit land. He would submit that no document has been placed on record to establish any nexus between the suit land described in Mutation Entry No.585.

4.1. He would submit that even if the case of Respondents is to be considered then the conduct of Devkibai during the said period is of material importance. He would submit that even after her right being waived off she did not choose to challenge the Mutation Entries at any point of time during her lifetime even after being aware of Mutation Entry No.585 by which the suit land was first transferred to Baliram. He would submit that only after 64 years Respondents decided to challenge the said Mutation Entry which on the face of record is nothing more than an afterthought.

4.2. He would submit that the reasons stated for the inordinate delay are wholly untenable and lacks validity on the face of record. He would submit that if at all Respondents' claim is to be considered then it is crucial to consider that no efforts were made at any point of time during the intervening years to apply to the Talathi Office for recording their names as heirs after the demise of their mother. Hence, the silence of Respondents upto the year 2022 is also necessary to be considered while adjudicating the matter.

4.3. In support of his submissions, he has referred to and relied

upon the decision of this Court in the case of ***B.M.E's Bhagyawan Cooperative Housing Society Limited Vs. The District Superintendent of Land Records, Mumbai Suburban District and Ors.***[1] and ***Jayesh Dinesh Kadam and Anr. Vs. Andrew David Fernandes, through POA, Balkrishna Ashok Shelar and Ors.***[2] In the case of *Jayesh Dinesh Kadam and Anr. (supra)* he has specifically relied upon paragraph Nos.18, 19 and 20 of the said decision which read as under:-

> *"**18.** In the present case, the conduct of Plaintiff in filing the suit proceedings therefore needs to be commented upon and punitive action is required to be invoked against such a Plaintiff. It is seen that the cause of action paragraph i.e. paragraph No. 15 is on the face of record drafted in a cryptic and vague manner. There is clear suppression in the said paragraph under reference. The cause of action stated by the Plaintiff is the receipt of notice in the Writ Petition filed by Mr. Victor Thomas Fernandes. The person who has filed the Writ Petition on behalf of Victor has filed the present suit on behalf of the Plaintiff. His name is Mr. Balkrishna Ashok Shelar. It is an admitted position that the same Mr. Shelar is prosecuting the RTS proceedings to challenge the mutation entries of 1969. Hence, filing of the present suit proceedings by him on behalf of the Plaintiff is nothing but a vexatious approach. In the facts of the present case, if such Suit Plaints are countenanced, it will cause mayhem for bonafide subsequent purchasers. The verbosity of the pleadings and arguments of the Plaintiff in the present CRA is also required to be commented upon. As noted above, none of the citations cited by the Plaintiff pertain to the relief under Article 58 which is the relief for declaration. The Plaintiff has given an exhaustive note on the Applicants' compilation of judgments. That note is only on the distinguishment of facts and nothing more. The suit of the Plaintiff is hit by gross delay and laches and that itself is an adequate ground for its dismissal. In view of the observations and findings stated herein above, the Plaintiff has not approached the civil court with clean hands. He has suppressed material information which has been disclosed by the opposite party. Such a Plaintiff deserves to be non-suited in the first instance itself by dismissing the suit at the threshold under Order VII Rule 11. The findings returned in paragraph No. 21 of the impugned order which have been vehemently argued by Plaintiff/Respondent No. 1 are rejected in view of my observations and findings. There is absolutely no due diligence*

1 Civil Writ Petition No.2994 of 2025, decided on 09.04.2025
2 2024 SCC OnLine Bom 2549

on the part of the Plaintiff rather, the cause of action pleaded is an act of ingenious and clever drafting of the Suit Plaint and even arguments made before me by taking recourse to pleadings of fraud or mistake without placing any material particulars on record. The findings returned in paragraphs Nos. 24 and 25 are hit by the law of limitation and therefore clearly unsustainable. The exercise adopted by the learned Trial Court of merely going through the Suit Plaint rather only paragraph No. 15 and accepting it as gospel truth and also commenting upon the Plaintiff suffering the consequences of not claiming any declaration of title and possession are in fact enough to reject the Suit Plaint threadbare. In that view of the matter, the conclusive finding returned in paragraph No. 34 is clearly unsustainable and thus the impugned order is quashed and set aside. Resultantly, the Application filed below Order VII Rule 11 of the CPC stands allowed."

19. *It is predominantly observed by me in many similar proceedings that successors-in-title from the subsequent generations are filing similar Suits as is the case of the Plaintiff to challenge vintage registered sale deeds. These vintage registered sale deeds are executed by the predecessors-in-title of the Plaintiffs who file such Suits. It is seen that considering that property prices, rather land prices have increased manifold and have reached exceedingly high proportions, litigants like the Plaintiff file such Suits to create nuisance to the Defendants - Developers who are developing the property with the sole intention and aim of attempting to extract an extra pound of flesh by resorting to filing Suit proceedings on some pretext or the other. The sole intention which drives such litigants who approach the Civil Courts is to extract a deal for the nuisance and delay that they would cause in development, thereby affecting the rights of the flat purchasers in the development and in turn the subsequent purchasers and the developer. Such is the case herein. It is an admitted position that when admittedly the Plaintiff has been residing on a portion of the larger Suit property and similarly when the successors-in-title of the remaining five sons of late Domingo Fernandes are also residing on a portion of the larger Suit property in their respective residences/bungalows, the Plaintiff cannot plead and state that he got knowledge about the twin registered sale deeds of 1969 and 2008 for the first time in the year 2022. In these facts, the above defence of gaining knowledge is not at all open to the Plaintiff.*

20. *This is a clear case where the Plaintiff by virtue of clever drafting is attempting to overcome the bar of limitation. It is not the Defendants' case that they are developing the larger Suit property just now. Development has been carried out by them over a period of time and is continuing. Hence, the filing of the Suit plaint by Plaintiff is nothing but a vexatious and extortionist claim by the Plaintiff and such claims are to be nipped in the bud at the threshold itself. If this is not done by the Court of law, litigants like the Plaintiff will end up taking*

the law into their hands. That is the precise reason for the existence of provisions of Order VII Rule 11 in the CPC."

5. Hence, in view of his above submissions he would urge the Court to quash and set aside the impugned order and allow the present Writ Petition in the interest of justice.

6. Mr. Waradkar, learned Advocate for Respondent Nos.8 and 9 in support of the impugned order has drawn my attention to Affidavit-in-reply and Additional Affidavit-in-reply dated 29.09.2025 and 15.11.2025 filed on behalf of Respondent Nos.8 and 9 by Ms. Vatsala Janardhan Mhatre authorised representative of Respondent Nos.8 and 9. He would submit that Petitioner has failed to establish any *locus standi* , right title or authority in the suit land therefore the present proceedings are wholly misconceived, untenable and not maintainable in law.

6.1. He would submit that the grounds urged by Petitioner regarding absence of cause of action, unexplained delay of 64 years and alleged lack of documentary support are completely untenable. He would submit that infact Petitioner herself fails to demonstrate any *prima facie* case against Respondents.

6.2. He would submit that the present Petition is hit by the rule of alternate remedy since Petitioner failed to show that the Revisional Authority acted in breach of jurisdiction or in violation of any binding precedent. Hence he would submit that the present Petition is not

maintainable.

6.3. He would submit that the dispute pertains to Mutation Entry No.585 concerning land bearing (old survey No.124/0) and new survey No.128/0 situated at village Nerepada, Taluka Panvel. He would submit that the land was originally owned by Paddu Mahadu Bhagat who died intestate in the year 1958 leaving behind his son Baliram and his daughter Devkibai alias Subhadra - Respondent No.7 since deceased. However the Revenue Record only reflected the name of Baliram under Mutation Entry No.585 without notice to Respondent No.7. He would submit that Petitioner claims to be the wife of Baliram while the present Respondents are the legal heirs of Devkibai – Respondent No.7 who died intestate in 2009 leaving behind equal rights in the suit land.

6.4. He would submit that Paddu Mahadu Bhagat during his lifetime did not execute any document or Will transferring rights in favour of Baliram yet Mutation Entry No.585 recorded Baliram as the sole heir on the basis of incomplete and incorrect information furnished to the Revenue Authorities behind the back of Devkibai - Respondent No.7. He would submit that no notice was issued to Devkibai - Respondent No.7 before certifying Mutation Entry No.585 and she never relinquished her share and thus held equal rights in the suit land. Hence, he would submit that Mutation Entry No.585 was

obtained illegally and Revenue Authorities failed to conduct a proper enquiry and violated the principles of natural justice including *audi alteram partem*.

6.5. He would submit that Mutation Entry No.1593 inserting name of Petitioner in the year 1983 was also illegally recorded as it is founded on the basis of void Mutation Entry No.585. He would therefore submit that both Mutation Entries are *void ab initio* and therefore the question of counting delay from the year 1958 does not arise.

6.6. He would submit that after the order dated 14.01.2025 the Circle Officer recorded Mutation Entry No.3082 on 11.02.2025 reflecting the names of Respondents and therefore the Petition is rendered infructuous. Hence, he would submit that the Petition is filed with the intention to grab the suit land and is devoid of merit and therefore he would urge the Court to dismiss the Petition.

7. I have heard, Mr. Sathe, learned Advocate for Petitioner and Mr. Chandurkar, learned AGP for Respondent – State and Mr. Waradkar, learned Advocate for Respondent Nos.8 and 9.

8. At the outset, it is seen that Mutation Entry No.585 was certified on 24.02.1958 upon the death of Paddu Mahadu Bhagat and name of Baliram was recorded as legal heir. It is seen that sister Devkibai from whom the present Respondents claim, did not question

the said Mutation Entry at any point during her lifetime until her demise in the year 2009. The present proceedings are initiated for the first time in September 2022. It is seen that no material has been placed on record to establish any reasonable or bona fide cause of action for approaching the Authorities after an extraordinary delay of 64 years for setting aside the long standing Mutation Entry.

9. It is seen that the Revisional Authority proceeded on the assumption that notice was not issued to the predecessor of Respondents in the year 1958. This assumption, even if presumed to be correct, cannot by itself justify condonation of such an inordinate delay. As it is pertinent to note that there has been complete inaction on the part of the predecessor-in-title and even the Respondents for several decades, despite the Revenue Record reflecting Mutation Entry No.585 from 1958 to 1983 and thereafter Mutation Entry No.1593 from the year 1983 to 2022, which clearly demonstrates absence of due diligence and negates any plea of sufficient cause. Hence, the finding of the Revisional Authority on this aspect is perverse and contrary to established principles governing condonation of delay.

10. It is seen that Mutation Entry proceedings are fiscal in nature and do not determine title. However, once a Mutation Entry stands unchallenged for several decades and parties act upon it, it attains finality. A challenge after 64 years without any supporting documents

or justification is wholly impermissible. It is seen that the Revisional Authority has exercised jurisdiction with disregard of these settled principles thereby rendering the impugned order unsustainable in law.

11. Attention is drawn to the decision of this Court in the case of *B.M.E's Bhagyawan Cooperative Housing Society Limited (supra)* wherein the Court elaborately considered the parameters constituting "sufficient cause" for condonation of delay particularly in cases involving an inordinate lapse of time which is identical to the facts of the present case. Relevant paragraph Nos.17, 18, 19 and 20 of the said decision are reproduced below for ready reference.:-

> *"**17.** Insofar as the cause furnished by the contesting respondents in the application for condonation of delay is concerned, it is evident that the only explanation offered is a mere bald statement that the contesting respondents were unaware of the impugned order. In law, a mere bald and unsubstantiated statement that the appellants were unaware of the impugned order, by itself, is not sufficient to constitute a "sufficient cause" warranting condonation of delay, particularly when the delay is of an inordinate magnitude spanning over 11 years. In proceedings seeking condonation of such prolonged delay, the appellants are required to substantiate their case by placing on record credible and cogent material demonstrating the following factors: (i) The circumstances or context in which the impugned order came to be passed and the chain of events that led to its alleged discovery by the appellants; (ii) The due diligence undertaken by the appellants during the intervening period to safeguard their legal rights or interests; (iii) Efforts, if any, made by the appellants earlier to inquire into or ascertain their legal status, title, or rights affected by the impugned order; (iv) Absence of constructive or deemed knowledge, particularly in a case where the impugned order was of such a nature that it would ordinarily be expected to be communicated, published, or acted upon in a manner which would alert a reasonable person; and (v) Whether the impugned order resulted in any change of status, title, or right that would have been manifest, patent, or publicly known, and whether despite such changes, the appellants could plausibly have remained unaware.*
>
> ***18.** The contesting respondents, however, have failed to furnish any such particulars, nor have they placed on record any*

material to demonstrate exercise of due diligence or absence of negligence.

19. *When a person claims lack of knowledge of an order passed several years earlier, certain well-settled principles assume relevance. Firstly, mere assertion of lack of knowledge, without more, is insufficient. The person seeking condonation must place on record specific material to demonstrate (a) how and when knowledge was first acquired, (b) that no constructive or deemed knowledge existed earlier, and (c) that there was no negligence or inaction on their part in safeguarding their rights. Secondly, material evidence ought to be placed before the Court which may include affidavits or correspondence showing attempts at inquiry; contemporaneous documents explaining the reasons for delayed discovery; statements from similarly situated persons, if applicable; and any official record, communication, or response evidencing delayed receipt of information. Thirdly, if an order has been implemented or acted upon in a manner impacting the legal rights, title, or possession of the person concerned, it is presumed that the affected person would have constructive knowledge of the order, unless such presumption is rebutted by cogent and credible evidence.*

20. *In the present case, the contesting respondents have not placed any material on record to satisfy the aforesaid tests. No contemporaneous efforts to inquire into the status of the land or legal rights have been shown. No evidence has been produced to rebut the presumption of knowledge arising from the implementation of the impugned order and consequent mutation or alteration in revenue records. Thus, the approach adopted by the Authorities in mechanically condoning the delay without application of the aforesaid principles cannot be sustained in law."*

12. On applying the aforesaid principles to the facts of the present case, in my opinion, Respondents have failed to place on record any contemporaneous material, correspondence, affidavits of third parties, or any documentary evidence which would indicate that they have made any enquiries or sought any clarification regarding their legal status or rights at any earlier point of time. Furthermore, there is no plausible explanation offered as to how Respondents remained unaware of the Mutation Entry for more than six decades.

13. Furthermore, it is seen that no document has been placed on record to establish any nexus between Respondents and the suit land described in Mutation Entry No.585. These deficiencies, goes to the root of the Respondents' claim were surprisingly not considered by the Revisional Authority.

14. The conclusion of the Revisional Authority that Mutation Entry Nos.585 and 1593 are *void ab initio* is completely erroneous, in my opinion. It is further seen that there is no material placed on record to suggest any fraud, suppression or illegality in procuring the Mutation Entries. What is important is that the predecessor of Respondents, though being aware of the Mutation Entry, remained silent for more than five decades, hence such conduct of predecessor rules out the point that the Mutation Entries were void so as to be challenged at any point of time.

15. The approach of the Revisional Authority in condoning such inordinate delay without due application of mind to the relevant factors and principles, constitutes a clear error of jurisdiction and is unsustainable. The impugned order suffers from a jurisdictional error and discloses non-application of mind to settled legal principles.

16. The subsequent certification of Mutation Entry No.3082 on 11.02.2025 during the pendency of Petition does not render the Petition infructuous. It is well-settled that under the scheme of the

Maharashtra Land Revenue Code, 1966, an order condoning delay is distinct and independent from the order admitting the Appeal or deciding it on merits. Section 247 read with Section 257 of of the Maharashtra Land Revenue Code, 1966, confers an independent right upon an aggrieved person to challenge the order condoning delay by way of Revision or other appropriate proceedings. The right to challenge the order condoning delay is substantive Therefore, the contention of Respondents that the present Writ Petition is rendered infructuous by reason of the subsequent decision on merits deserves to be rejected.

17. Hence, if the condonation of delay itself is found to be illegal or without jurisdiction, all subsequent proceedings based upon such condonation, including the decision on merits, would be rendered without jurisdiction and *non est* in the eyes of law. The said Mutation Entry is a consequential entry based on the impugned order. Once the impugned order is liable to be set aside, Mutation Entry No.3082 cannot survive.

18. It is seen that Petitioner has relied upon long-standing Mutation Entries that have remained undisturbed for more than six decades. Hence, I am of the opinion that Petitioner has made out a clear case for grant of relief. The impugned order passed by Additional Charity Commissioner condoning the delay is vitiated by error apparent on the face of the record and deserve to be set aside.

19. In view of the above observations and findings, the impugned judgment and order dated 14.01.2025 passed by the Additional Divisional Commissioner, Konkan Division in RTS Revision Application No.734 of 2024 is unsustainable in law and is therefore quashed and set aside.

20. The orders dated 07.08.2023 passed by the Sub-Divisional Officer and 30.07.2024 passed by the Additional Collector, Raigad rejecting the Application for condonation of delay filed by Respondent Nos.7 to 9 are thereby upheld and confirmed. Writ Petition succeeds.

21. Mutation Entry No.3082 dated 11.02.2025, being consequential to the impugned order, shall stand cancelled and deleted from the Revenue Record. Mutation Entry Nos.585 and 1593 shall continue to subsist and operate in the Revenue Record. Needless to state that if Respondents desire to assert any substantive right in the subject property pertaining to Mutation Entry Nos.585 and 1593, they can approach appropriate Civil Court for appropriate necessary reliefs since Mutation Entries do not *prima facie* confer title.

22. Resultantly, Writ Petition is allowed in the above terms.

[MILIND N. JADHAV, J.]

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