

Arun Sankpal

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**WRIT PETITION NO. 10588 OF 2025**

Vilas Baburao Holkar,  
Age: 65 years, Occu: Agriculture,  
R/o. Sadobachiwadi, Tal. Baramati,  
District-Pune

..Petitioner

**Versus**

1. Sub Divisional Officer,  
Baramati Sub Division, Baramati,  
Pune.

2. Anis Ismail Kazi,  
R/o. Kondhwa (Bk), Tal. Haveli,  
District: Pune.

...Respondents

Mr. Sunil Karandikar, with Ashutosh Kulkarni, Vishal Choudhary,  
Yogesh Sukale and Sainath Garade, i/b Aadesh  
KondeDeshmukh, for the Petitioner.  
Mrs. S.D. Chipade, AGP, for Respondent No.1-State.  
Mr. Vaibhav Sugdare, with PB. Gujar, for Respondent No.2.

**CORAM: N. J. JAMADAR, J.**

**DATED : 14<sup>th</sup> AUGUST 2025**

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RAMCHANDRA  
SANKPAL

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**JUDGMENT:**

- 1.** Rule. Rule made returnable forthwith, and, with the consent of the learned Counsel for the parties, heard finally.
- 2.** The Petitioner assails the legality, propriety and correctness of a judgment and order dated 20<sup>th</sup> December 2014 passed by the learned

Member, Maharashtra Revenue Tribunal, Pune, (“MRT”), whereby, the Revision Application preferred by the Petitioner and others against an order dated 5<sup>th</sup> December 2005 passed by Sub Divisional Officer, Baramati, Pune in Tenancy Case No. TNC/SR/15/2005, thereby granting permission for the sale of the subject land under the provisions of Section 43 of the Maharashtra Tenancy and Agriculture Lands Act, 1948 (“the Act of 1948”), came to be dismissed by affirming the said order of SDO.

**3.** A contractual dispute has generated a spate of litigation; traversing civil, revenue and criminal jurisdictions.

**4.** Mr. Baburao Shankar Holkar, the predecessor-in-title of the Petitioner, became a deemed purchaser of the subject land under Section 32 G of the Act of 1948 and obtained a Certificate under Section 32 M of the Act of 1948, upon payment of the purchase price. Mr. Baburao Holkar effected partition of the subject land among himself, Vilas Baburao Holkar, the Petitioner, and two other sons, namely, Thaksen and Sudhakar.

**5.** Baburao Holkar, Vilas Holkar and the abovenamed two other sons entered into Agreement for Sale of the respective portions of land in favour of Respondent No.2. Upon refusal of performance, the Respondent No.2 instituted Suits being Suit Nos. 56, 57, 58 and 59 of 2000 against the Holkars.

**6.** The Suits were decreed with a direction to the Defendants to execute the Sale Deed, after obtaining permission of the Competent Authority as envisaged by Section 43 of the Act of 1948.

**7.** The Petitioner preferred an Appeal with an Application for condonation of delay of over 11 years. The Application was rejected by the learned District Judge, Baramati, by a judgment and order dated 3<sup>rd</sup> April 2019. A Second Appeal No. 718 of 2019 preferred thereagainst came to be dismissed by this Court by an Order dated 9<sup>th</sup> March 2020.

**8.** In the meanwhile, the Respondent No.2 filed Execution Petition. A Court Commissioner came to be appointed to seek permission from the Competent Authority to sell the subject land. The Court Commissioner filed the Application before the SDO. By an order dated 5<sup>th</sup> December 2005, the SDO, granted the permission under Section 43 of the Act of 1948. The Revision thereagainst being Tenancy Revision TNC/REV/P/9/2006, came to be dismissed by the MRT by the impugned order dated 20<sup>th</sup> December 2014.

**9.** It seems, the Petitioner filed an Application seeking review of the said order, being Review Petition No. Delay No. 1 of 2022. It was allowed by the MRT by an order dated 3<sup>rd</sup> August 2023.

**10.** The Respondent No.2 challenged the said order in Writ Petition No. 5422 of 2024. By an order dated 13<sup>th</sup> January 2025, with the consent of the Petitioner (R1 therein), the said order dated 15<sup>th</sup>

September 2023 passed by the MRT was set aside and the Application preferred by the Petitioner stood dismissed with liberty to the Petitioner to challenge the order dated 20<sup>th</sup> December 2014 passed by the MRT by filing an appropriate proceeding.

**11.** Availing the aforesaid liberty, the Petitioner has preferred this Petition.

**12.** Mr. Karandikar, the learned Counsel for the Petitioner, submitted that the primary fact that the Respondent No.2 was not an agriculturist so as to overcome the bar under Section 63 of the Act of 1948 was not established. The permission granted by SDO under Section 43 of the Act of 1948 was with a rider that the said permission was granted on the strength of the documents, then produced by the Respondent No.2, and it was liable to be cancelled if those facts and information furnished by Respondent No.2 turned out to be false. Inviting the attention of the Court to the Certificate issued by the Tahsildar, Pune, on the 14<sup>th</sup> September 2005, on the strength of which the permission was granted by the SDO, Mr. Karandikar would urge that the Respondent No.2 had relied upon apparently false and forged documents to claim the status of an agriculturist. Therefore, the order passed by the SDO based on such documents and consequently the impugned order are clearly unsustainable.

**13.** In opposition to this, Mr Sugdare, the learned Counsel for the Respondent No.2, submitted that the instant Petition is but a link in the chain of persecution unleashed by the Petitioner and other Judgment Debtors who lost in the civil proceedings up to this Court. Not only, the various proceedings have been instituted before the Authorities under the Act of 1948 and the Revenue Authorities but even a false prosecution was initiated against the Respondent No.2, being RCC NO. 174 of 2007, on the self-same ground; which resulted in acquittal.

**14.** Mr. Sugdare further urged that, at any rate, the instant Petition which assails an order passed by the MRT in the year 2014 is clearly barred by delay and laches. To this end, reliance was placed on a judgment of the Supreme Court in the case of **Mrinmoy Maity Vs Chhanda Koley & Ors.**<sup>1</sup>

**15.** I have carefully considered the submissions canvassed on behalf of the parties.

**16.** Evidently, the Petitioner and the Judgment Debtor have resorted to collateral proceedings to defeat the decrees of specific performance passed against them which have attained finality.

**17.** The order passed by the SDO which was impugned before the MRT adverts to the essential facts which would bear upon the grant of permission under Section 43 of the Act of 1948. By the impugned order the MRT has adequately dealt with the challenge to the grant of

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1        2024 SCC OnLine SC 551.

permission under Section 43 of the Act of 1948 and rejected the same by ascribing justifiable reasons. It is of critical significance to note that before the MRT the ground that the Respondent No.2 was not agriculturist for the reason that the land over which the Respondent No.2 laid claim was a mosque inam, was not at all raised. On the contrary, it was contended that the land was within the limit of Pune Municipal Corporation and, therefore, it ceased to be an agriculture land; which was rightly rejected by the MRT.

**18.** Thus, the impugned order does not suffer from such infirmity as to warrant any interference in exercise of extraordinary jurisdiction even if the ground of delay and laches is discounted.

**19.** Nonetheless, to satisfy the conscience of the Court Respondent No.2 was directed to place on record the copies of the Record of Rights to indicate that the Respondent No.2 was an agriculturist. Copies of the Record of Rights of the lands bearing Survey Nos. 55/2B/1, 55/5A, 55/1A/1, 55/2A/1, 55/2B/1, and 55/5A, placed on record by Respondent No.2, substantiate the claim of Respondent No.2 that he was holding the agriculture lands at the relevant point of time.

**20.** The endeavour of Mr. Karandikar to now urge that the said lands were in fact mosque inam lands and the names of the Respondent No.2 and his predecessor-in-title were mutated in the capacity of Kazizs', does not merit countenance. First and foremost, as noted above, such a

ground was not raised before the MRT. Secondly, in the light of the consistent entries in the Record of Rights, such contention, sought to be raised as a desperate attempt to keep the dispute alive, needs to be firmly repelled.

**21.** At this stage, the submission of Mr Sugdare, that the instant Petition is but a device of persecution, deserves consideration. As noted above, apart from the belated attempts to question the decree passed in the Civil Suit, and the proceedings under the Act of 1948, the Respondent No.2 came to be prosecuted for the offences punishable under Section 420, 465, 468 and 471, of the Indian Penal Code and has since been acquitted by a judgment and order dated 25<sup>th</sup> April 2017. Simultaneously, the Mutation Entry recording the name of the Petitioner to the Record of Rights of the subject land on the basis of the permission granted by the SDO, under Section 43 of the Act of 1948 was assailed before the Revenue Authorities leading to a series of proceedings under the Maharashtra Land Revenue Code, 1966. The Certificate granted by the Tahsildar to the effect that the Respondent No.2 was holding the agriculture land is also subject matter of proceeding before the Authorities under the MLRC Code.

**22.** In the totality of the circumstances, it seems that the multiple proceedings have been instituted before various forums though the

Petitioner and the erstwhile co-owners of the subject land did not succeed in the civil proceedings up to this Court.

**23.** The aspect of the delay and laches is required to be appreciated through the aforesaid prism. It is trite law that delay or laches is one of the factors which is required to be taken into account while exercising extraordinary jurisdiction. In appropriate cases, the High Court may be justified in declining to exercise extraordinary jurisdiction where the delay or laches simplicitor or in-conjunction with the concomitant circumstances, have the propensity to cause prejudice to the adversary. The case at hand is one of such cases where the Court would be justified in declining to exercise the extraordinary writ jurisdiction, at such belated stage.

**24.** Hence the following order:

**: O R D E R :**

- (i) The Petition stands dismissed.
- (ii) Rule discharged.
- (iii) No costs.

**[N. J. JAMADAR, J.]**