

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

**WRIT PETITION NO. 18384 OF 2024**

Vishnu Shankar Jare (Deceased) through LRs ...Petitioner

***Versus***

Bhiva Shankar Jare (Deceased) through LRs And ...Respondents  
Anr.

**Mr. Vijaykumar Dighe** a/w Mr. Parmeshwar Turerao and  
Mr. Aditya Mhaske, for the Petitioner.

**Mr. Sumit Kothari**, for the Respondent No.2.

**Ms. V. R. Raje**, A.G.P., for the State.

**CORAM : SOMASEKHAR SUNDARESAN, J.**

**DATE : FEBRUARY 4, 2026**

**ORDER :**

1. Rule. Rule is made returnable forthwith. By consent of the parties, the Petition is taken up for final disposal.

2. At the outset, it is seen from the record that while the order of the Minister has been challenged, the State has not been made a party. Upon the Learned AGP pointing out the same, the Petitioner seeks to add the State as a party, which is allowed across the Bar. Since the Learned AGP is present, the Learned AGP also accepts notice. The

change to add the State is permitted to be carried out in front of the Associate. Re-verification is dispensed with.

3. The order impugned in this Petition is an order passed by the Minister setting aside the decision of the District Inspector of Land Records (***“DILR”***) and condoning a delay of 50 years in seeking to correct a mutation entry, which had been entered pursuant to the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947 (***“Fragmentation and Consolidation Act”***).

4. The facts fall within a rather narrow compass. The Petitioner and Respondent No.1 are siblings, and they jointly acquired a certain parcel of land admeasuring over 14 acres on February 08, 1961. On June 22, 1965, the Respondent No. 2 and the Petitioner jointly acquired a similar area of land from the same sellers.

5. Under the Fragmentation and Consolidation Act, in 1972, the lands were consolidated and divided in terms of the scheme formulated under the said legislation. Four names came to be entered in the land records, based on which a three-way division was effected, with Respondent No. 2 getting Gat No. 658 admeasuring 18 acres and 13 gunthas, while Respondent No. 1 got Gat No. 657 admeasuring 11 acres

and 16 gunthas, while the Petitioner got Gat No. 659 admeasuring 8 acres and 18 gunthas.

6. The rectification of mutation entry in the present case was sought on the basis that that the name of the grandfather had been entered in the process of the consolidation and that the Petitioner's father, Vishnu, being illiterate at the relevant time, did not appreciate that there was no need at all for grandfather's name to be entered.

7. The submission appears to be that by introducing the name of Shankar, the grandfather prior to the division under the scheme, more than the requisite share was passed on to Respondent No. 2 in the process of division. Towards this end, the application for condonation of delay seeking condonation of over 50 years was filed, and the DILR was pleased to condone the delay.

8. The Respondent No. 2 has filed an Appeal against the same before the Learned Minister, who in turn rejected the condonation and has refused to interfere with the purported error claimed by the Petitioner. The Petition impugns the decision of the Learned Minister refusing to condone the delay.

9. Having heard the Learned Advocates for the parties and having examined the record with their assistance, at the threshold, it is apparent that the delay is an inordinate one. It is of nearly half a century, and the primary ground for justifying the delay appears to be that, being a farmer, the Petitioner's father was illiterate and could not be expected to have been alert to what had transpired during the implementation of the scheme under the Fragmentation and Consolidation Act in 1972.

10. Worse, Learned Advocate for Respondent No. 2 points out that this is not the first attempt at trying to achieve what is sought to be achieved in the name of remedying the mistake. He would contend that the attempt to place the matter as a mere mistake on account of illiteracy is inappropriate and, in fact, constitutes a suppression. He submits that before the DILR and before the Minister, Respondent No. 2 had pointed out multiple iterations wherein the knowledge of the Petitioner was clear as to what entitlements flowed to them under the scheme pursuant to the Fragmentation and Consolidation Act.

11. The upshot of his submission is that this is yet another attempt to try and pitch the quest for additional land in the garb of a mistake

made by their late father, who passed away in 2022, while purporting to have become aware of the matter only in 2022.

12. Towards this end, he would also point to the scheme of the Fragmentation and Consolidation Act to show that in its operation, there were multiple iterations and opportunities for the Petitioner's father, who would have been fully aware of what was being done under the scheme. He also points to transactions effected by the siblings of the Petitioner including Respondent No.1, where the witness to those transactions was Petitioner No. 1A, who was clearly aware of the fact that the vesting of specific portions of land and its three-way division was well within their knowledge. In other words, even third party transfers were effected with the full knowledge of what exactly their entitlements were.

13. Without getting into the merits of the matter, the upshot simply is that throughout this process there were opportunities to become aware of the so-called entitlement and the purported mistake that took place in the course of the mutation entries being entered pursuant to the consolidation in 1972. The transactions in question pointed out by Respondent No. 2 took place on June 30, 2016, and in each of the three transactions, Mr. Somnath Jare was the witness to the Sale Deed.

14. Evidently, Mr. Bhiva Shankar Jare, i.e., Respondent No. 1, and Somnath Vishnu Jare, i.e., Petitioner No.1 were conscious of their entitlements, and even at that stage, they had an opportunity to claim that there had been a mistake and seek rectification. However, by pegging it to the demise of Vishnu Jare in 2022, he would submit, they have sought to somehow whitewash the attempt to seek a change in entitlement by claiming that illiteracy had led to a delay in becoming conscious of the need to rectify the mistake.

15. Towards this end, a judgement of a Learned Single Judge of this Court in ***Aluwid Architectural***<sup>1</sup> is squarely on point, dealing with another identical 50-year delay also on the premise of the illiteracy of an ancestor farmer. In that case, Learned Single Judge was pleased to hold that the matter may, on the face of it, appear to be an attempt to justify the need to condone a delay, but has far-reaching implications on the operation of a scheme formulated under the Fragmentation and Consolidation Act. The Learned Single Judge identified that the matter squarely falls within the interpretation of the provisions and scheme of the Fragmentation and Consolidation Act. Towards this end, the following extracts would be noteworthy.

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1 *Aluwid Architectural Private Ltd. And Ors. Vs. Housabai Jagannath Gavhane And Ors.*, 2023 SCC OnLine Bom 2133

*“27. In contrast, if the grounds in the Appeal Memo and the application for condonation of delay in preferring the Appeal, purportedly under Section 247 of the Code, 1966, are considered, it becomes abundantly clear that respondent No. 1 has now assailed the legality and validity of the Consolidation Scheme qua the subject lands by asserting that while settling the scheme, no opportunity of hearing was given to respondent No. 1 or her predecessor in title; neither notice was served on them nor they were otherwise informed, The entries in the record of rights pursuant to the settlement of the scheme were thus made in violation of the principles of natural justice. The area of land which came to be mutated to Gat Nos. 369, 373 and 374 was on the basis of incorrect Falnibara without carrying out actual measurements.*

*29. In this view of the matter, I am impelled to hold that the remit of this Petition is not restricted to testing the legality, propriety and correctness of the order of condonation of delay simpliciter. The impugned order, in my considered view, touches upon the jurisdiction of the authorities under the Consolidation Act, 1947, to vary the scheme under Section 32 of the Act, 1947.*

*31. There can be no duality of opinion that with the passage of time, third-party rights are created and equities intervene. Like in other walks of life, the proprietary and possessory title to the properties do not remain constant forever. If the settled claims are unsettled after half a century, it has the propensity to affect the rights and interests of the persons, who enter into the transactions on the faith of the claims settled under the Consolidation Act, 1947.”*

16. In my opinion, the approach of the Learned Single Judge in ***Aluwid Architectural*** is squarely relevant to the approach to be adopted in this case as well. That apart, the Learned Advocate for Respondent No. 2 does *prima facie* point to a suppression that has been found from the record itself. The Learned Minister, of course, has chosen simply to refuse condonation of delay, but in the exercise of the extraordinary jurisdiction of this Court, no reasonable basis has been found in the Petition or in the submissions to warrant any interference in the matter.

17. When a Writ Court interferes with an order impugned, the Court must be mindful of the wider ramifications of such interference, since the jurisdiction is an equitable one. Inequitable outcomes would follow if any intervention were to be made simply on the premise of illiteracy, which, contention itself stands undermined in the facts of this case.

18. For the aforesaid reasons, the Writ Petition deserves to be ***dismissed***, and the Rule is discharged accordingly.

19. Purely given the background of the parties and their financial capacity, no costs have been ordered.

20. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

**[ SOMASEKHAR SUNDARESAN, J.]**