

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5806 OF 2022
WITH
INTERIM APPLICATION NO. 2275 OF 2026
IN
WRIT PETITION NO. 5806 OF 2022

Amol Govind Mhatre & Ors .. Petitioners
Versus
Sharda Ganpat Sawant & Anr. .. Respondents

WITH
WRIT PETITION NO. 17123 OF 2024

Priya Prabhakar Rane .. Petitioner
Versus
State of Maharashtra & Ors. .. Respondents

WITH
WRIT PETITION NO. 16623 OF 2025
WITH
INTERIM APPLICATION (ST) NO. 6676 OF 2026
WITH
INTERIM APPLICATION NO. 1907 OF 2026
WITH
INTERIM APPLICATION (ST) NO. 6646 OF 2026
WITH
INTERIM APPLICATION (ST) NO. 6695 OF 2026
WITH
INTERIM APPLICATION (ST) NO. 6709 OF 2026
WITH
INTERIM APPLICATION (ST) NO. 2099 OF 2026
WITH
INTERIM APPLICATION (ST) NO. 6671 OF 2026
WITH
INTERIM APPLICATION (ST) NO. 6697 OF 2026
IN
WRIT PETITION NO. 16623 OF 2025

Priya Prabhakar Rane .. Petitioner
Versus
State of Maharashtra & Ors. .. Respondents

WITH
WRIT PETITION NO. 16325 OF 2025
WITH
INTERIM APPLICATION (ST) NO. 6673 OF 2026
WITH
INTERIM APPLICATION (ST) NO. 6640 OF 2026
WITH
INTERIM APPLICATION (ST) NO. 6668 OF 2026
WITH
INTERIM APPLICATION (ST) NO. 6704 OF 2026
WITH
INTERIM APPLICATION (ST) NO. 6712 OF 2026
WITH
INTERIM APPLICATION (ST) NO. 1732 OF 2026
WITH
INTERIM APPLICATION (ST) NO. 6648 OF 2026
WITH
INTERIM APPLICATION (ST) NO. 6679 OF 2026
IN
WRIT PETITION NO. 16325 OF 2025

Priya Prabhakar Rane

.. Petitioner

Versus

State of Maharashtra & Ors.

.. Respondents

.....

- Mr. Aseem Naphade a/w. Ms. Varshini Sunder a/w Ms. Rashmi Shetty i/b Mr. Deepak Deshmukh, Advocates for Petitioners in Writ Petition No.5806 of 2022 and for Respondent No.10 in Writ Petition No.17123 of 2024.
- Mr. Ranjit Thorat, Senior Advocate a/w, Mr. Akshay Shinde, Advocate for Petitioner in Writ Petition No.17123 of 2024 and for Respondent No.1 in Writ Petition No.5806 of 2022.
- Mr. Ranjit Thorat, Senior Advocate a/w. Ms. Prathibha Shelake, Advocate for Petitioner in Writ Petition No.6325 of 2025 and Writ Petition No.16623 of 2025.
- Dr. Birendra Saraf, Senior Advocate a/w. Mr. Bhanu Chopra, Mr. Jahan Ajay Chokshi, Mr. Mohit Shah and Mr. Adit Furia i/by KJAC & Associates, Advocates for Applicant in Interim Application No.2275 of 2026 in Writ Petition No.5806 of 2022 and for Respondent No.2 in Writ Petition No.17123 of 2024, Writ Petition No.16623 of 2025 and Writ Petition No.16325 of 2025.
- Ms. Kavita Solunke, Add. GP a/w. Ms. P. J. Gavhane and Mr. A. C. Bhadang, AGP for the State.

- Mr. Ravi Kadam, Senior Advocate i/by Ms. Dipti Nagda for Applicant in Interim Application (St.) No.2099 of 2026 in Writ Petition No.16623 of 2025 and Applicant in Interim Application (St) No.1732 of 2026 in Writ Petition No.16325 of 2025.
- Mr. Rohan Kadam a/w Ms. Kunjan Chheda a/w Ms. Divya Padia i/by Ms. Dipti Nagda for Applicant in Interim Application (St.) No.6695 of 26, Interim Application (St) No.6671 of 2026, Interim Application (St) No.6646 of 2026, Interim Application (St) No.6697 of 2026, Interim Application No.1907 of 2026, Interim Application (St) No.6676 of 2026, Interim Application (St) No.6709 of 2026 in Writ Petition No.16623 of 2025; Interim Application (St.) No.6704 of 2026; Interim Application (St) No.6640 of 2026; Interim Application (St) No.6648 of 2026; Interim Application (St) No.6673 of 2026; Interim Application (St) No.6668 of 2026; Interim Application (St) No.6679 of 2026; Interim Application (St.) No.6712 of 2026 in Writ Petition No.16325 of 2025.

.....

CORAM : MILIND N. JADHAV, J.

DATE : JUNE 08, 2026.

P.C.:

1. Heard learned Advocates appearing for the respective parties.

2. By the present judgment and order, all four Writ Petitions are heard by consent of parties finally. All four Writ Petitions arise from a dispute over common subject properties. A brief description of the four Writ Petitions is as follows:-

2.1. Writ Petition No.5806 of 2022 is filed by Amol Govind Mhatre, who is claiming through the Mortgagor under Mortgage dated 01.12.1938, against Sharda Ganpat Sawant since deceased against her legal heir Ms. Priya Prabhakar Rane. This Writ Petition challenges order dated 23.12.2019 passed by Additional Commissioner, Konkan

Division rejecting the Revision Application of Petitioner and confirming order dated 30.03.2017 of Deputy Collector (Appeals) whereby the name of Sharda Ganpat Sawant was directed to be mutated as holder/owner in Revenue record/7/12 extract on the basis of probated Will of the Original Mortgagee(Mr. Yeshwantrao Save).

2.2. Writ Petition No.17123 of 2024 is filed by Ms. Priya Prabhakar Rane against Vijay Nagar Corporation, who is the Developer appointed by the successor-in-title and legal heir of original Mortgagor(Mr. Maraji Mhatre) around the year 1975-1976. This Writ Petition challenges order dated 21.10.2024 passed by Additional Commissioner, Konkan Division which has rejected Ms. Priya Rane's representation against the Revision Application filed by Vijay Nagar Corporation challenging the order dated 30.03.2017 passed by Deputy Collector Appeals as not maintainable. The said Order dated 30.03.2017 confirmed the name of Petitioner's mother Sharda Ganpat Sawant (legatee and heir of Mortgagee) as the holder/owner on the 7/12 extract of subject properties on the basis of probate.

2.3. Writ Petition No.16623 of 2025 is filed by Ms. Priya Prabhkar Rane against the State of Maharashtra and Vijay Nagar Corporation. This Writ Petition challenges order dated 07.10.2025 passed by the Revenue Minister whereby the Minister has set aside the orders dated 08.03.2023 and 24.12.2024 of the DDLR and DSLR by

which Application made by Ms. Priya Prabhakar Rane was allowed and the amalgamation/subdivision order dated 08.10.1985 of the entire Yogi Nagar layout was cancelled after a period of 36 years.

2.4. Writ Petition No.16325 of 2025 is filed by Ms. Priya Prabhakar Rane against State of Maharashtra and Vijay Nagar datel Corporation. This Writ petition challenges order dated 07.10.2025 passed by the Revenue Minister which has set aside the orders of the DDLR and DSLR condoning and upholding delay of 36 years in challenging the amalgamation/subdivision order dated 08.10.1985 of Yogi Nagar layout.

3. Necessary brief facts for deciding present Petitions are as follows:-

3.1. It is undisputed that in 1939, Mr. Maraji Mhatre was the owner of subject properties bearing Survey Nos. 67/4, 67/14/2, 67/7, 67/10, 57/19 and 69/2 and CTS Nos. 1840, 1851, 1855, 1858, 1891 and 1892 area situated in Village Eksar, Taluka Borivali, Mumbai Surburban District (hereinafter for the sake of brevity referred to as "subject properties").

3.2. Mr. Mhatre and Mr. Yeshwantrao Save executed Mortgage Deed dated 13.02.1939 wherein Mr. Mhatre handed over possession of subject properties to Mr. Save for loan of Rs.425/- for a period of five years. Terms of Mortgage Deed dated 13.02.1939 provided that if Mr.

Mhatre failed to repay the loan amount of Rs.425/- to Mr. Save, then Mr. Mhatre was to transfer ownership, possession related rights, claims, authority or interest in the entire subject properties to Mr. Save and register the same in his name.

3.3. On 04.01.1941, Mr. Mhatre passed away and was survived by his daughter Ms. Manibai Vithal Mhatre. On 01.12.1943 the mortgage term expired. Mr. Save did not take any steps to fructify non-redemption of the Mortgage Deed by Mr. Mhatre's successors-in-title. On 19.02.1960 Mr. Save executed a Will bequeathing all his properties to Ms. Sharda Ganpat Sawant, daughter of his close friend. Mr. Save expired on 03.06.1968. Mr. Save admittedly never made any application during his lifetime from 1943 onwards to record his name in the Revenue records neither called upon the legal heirs of Maraji Mhatre to foreclose the Mortgage and convey the subject properties. Admittedly names of legal heirs of Mr. Mhatre continued in the Revenue records and possession of subject properties was all along held by them.

3.4. Between 1978 and 1984, the legal heirs of Mr. Mhatre permitted M/s. Vijay Nagar Corporation Respondent No. 3 to carry out development on a portion of the subject properties. On 01.10.1985, the City Survey Officer passed order on application filed by M/s. Vijay Nagar Corporation, consolidating and subdividing various survey

numbers and recording that possession of subject properties was with the said Corporation.

3.5. Vide order dated 08.11.2012, Ms. Sharda Ganpat Sawant obtained probate of the Last Will and Testament dated 19.02.1960 of Mr. Save from this Court through Testamentary Petition No. 1853 of 2012 to the property and credits of Mr. Save. On 04.12.2014, Ms. Sawant filed Application before Tahsildar to record her name in the Revenue records in respect of the subject properties. However, successors-in-title and heirs of Mr. Mhatre objected to the same. On 28.08.2015, Tahsildar by a reasoned order rejected Ms. Sawant's application being time barred by law.

3.6. In 2015 Ms. Sawant filed Appeal under Section 247 of the Maharashtra Land Revenue Code (for short "MLRC") before the Sub-Divisional Officer to challenge order dated 28.08.2015 passed by Tahsildar. Order dated 31.12.2016 passed by Sub-Divisional Officer allowed Ms. Sawant's Appeal and directed that earlier Mutation entries reflecting the names of legal heirs of Manibai Mhatre (daughter of Maraji Mhatre) in regard to the subject properties be cancelled. On 09.01.2017, in view of SDO's order dated 31.02.2016, Mutation Entry No. 5416 was certified and Ms. Sawant's name was mutated in respect of subject properties.

3.7. In 2017, legal heirs of Mr. Mhatre filed Appeal No. RTS

Appeal No. D.L.N./R.T.S/A-49/2015 under Section 247 of the MLRC before Collector to challenge order dated 31.12.2016 passed by SDO. On 30.03.2017, Collector passed order dismissing the Appeal.

3.8. Being aggrieved by order dated 30.03.2017, heirs of Mr. Mhatre filed Revision Application No. RTS Revision No.Appeal/Desk/R.T.S/Rev/626/2017 before Additional Divisional Commissioner, Konkan Division, Mumbai who dismissed the Revision Application on 23.12.2019.

3.9. Being aggrieved, Petitioner has filed Writ Petition No.5806 of 2022 to assail concurrent orders dated 23.12.2019, 30.03.2017 and 31.12.2016 passed by the Additional Divisional Commissioner, Collector and SDO and seek restoration of order dated 28.08.2015 passed by the Tahsildar.

3.10. On 24.02.2022, Ms. Sawant passed away. She executed Will dated 20.05.2016 bequeathing all her properties including the subject properties to her daughter Ms. Priya Prabhakar Rane. On 05.04.2022, Mutation Entry No. 5689 was certified whereby Ms. Priya Rane's name was mutated in the Revenue records in respect of the subject properties.

4. After hearing the learned Advocates appearing for the respective parties, I am of the opinion that adjudication of Writ Petition No.5806 of 2022 will admittedly decide the fate of the

remaining three Writ Petitions since the challenge in the remaining three Writ Petitions are to certain orders passed by the quasi judicial officers which form the subject matter of Writ Petition No.5806 of 2022, facts and parties are identical and most importantly cause of action is same in all Petitions emanating from the same set of facts.

5. Mr. Naphade, learned Advocate appearing for the Petitioners in Writ Petition No.5806 of 2022 would submit that this Writ Petition challenges and assails three orders dated 31.12.2016 passed by the Sub-Divisional Officer, 30.03.2017 passed by the Collector and 23.12.2019 passed by the Additional Divisional Commissioner which arise out of Application dated 04.12.2014 filed by original Respondent No.1 - Sharda Ganpat Sawant (now deceased) seeking mutation of Revenue records / 7/12 extract of subject properties as owner on the basis of grant obtained by her in 2014 of the Last Will and Testament dated 19.02.1960 of Mr. Yeshwantrao Save. He would submit that one Maraji Shinwar Mhatre (for short '**Maraji**') was undisputedly the owner of subject properties which are subject matter of the *lis* between parties. He would submit that said Maraji executed Mortgage Deed dated 01.12.1938 in favour of Yeshwantrao Atmaram Save mortgaging the subject property for a loan of a sum of Rs.425/-.

5.1. He would submit that term of mortgage was for five years on the term that Maraji will repay the principal amount and redeem the

subject properties within five years. He would fairly submit that in the Mortgage Deed, it is stated that Maraji handed over possession of the subject properties to Yeshwantrao Save but factually it was never handed over. He would submit that one of the key clauses in the Mortgage Deed was that if the redemption was not done within five years, then Maraji will transfer and register the subject properties in the name of Yeshwantrao Save. He would submit that perusal of the clauses of the Mortgage Deed *prima facie* show that the Mortgage Deed was not to operate as a conveyance in favour of Yeshwantrao Save and only in the event of failure to repay the loan and redeem the mortgage, Maraji was required to transfer and register the subject properties in the name of Yeshwantrao Save which has admittedly never been done.

5.2. He would submit that the five year mortgage period ended on 30.11.1943 by which time the sum of Rs.425/- had to be repaid by Maraji. He would submit that Yeshwantrao Save expired on 03.06.1962. One of the strong circumstance argued by Mr. Naphade is that despite Yeshwantrao Save being alive for a period of almost 19 years after expiry of the mortgage term in the year 1943, he did not take any steps whatsoever to seek transfer of the subject properties in his favour, neither during his entire lifetime he called upon legal heirs of Maraji Mhatre whose names were mutated in the Revenue records since 1941 to execute the transfer deed.

5.3. He would submit that Yeshwantrao Save during his lifetime did not make any Application to seek mutation of his name as owner / holder of the subject properties in the Revenue records. He would however submit that all mutation entries after Maraji's demise on 04.01.1941 were thereafter certified in favour of his daughter Manibai Mhatre and subsequently in the name of Manibai's legal heir i.e. her daughter Yesubai and after her in the names of her legal heirs. He would submit that for a period of almost 71 years Yeshwantrao Save's legal heirs did not assert any ownership right in respect of the subject properties after the mortgage term was over in 1943.

5.4. At this juncture, he would point out that in so far as Maraji's legal heirs were concerned, they took further steps to transfer the subject properties to Vijay Nagar Corporation and carried out massive development and construction on certain portions of the subject properties from the year 1978 onwards through the Developer. He would submit that as far back as on 01.10.1985, the City Survey Officer recorded in his amalgamation and subdivision order that possession of the subject properties was with M/s. Vijay Nagar Corporation and it had carried out extensive development thereon.

5.5. He would in his usual fair mindedness apprise the Court that in view of the 1938 Mortgage Deed between Maraji and Yeshwantrao Save, Mutation Entry No.552 added Yeshwantrao's name in the other

rights column in respect of the subject properties based on the Mortgage Deed encumbrance.

5.6. He would submit that the subject properties were not only transferred to third parties and Developer but was extensively constructed and built upon since the year 1975 onwards until today and is now occupied by several buildings and Cooperative Housing Societies housing thousands of flat purchasers therein. He would submit that another strong circumstance which aids the Petitioners' case is the fact that pursuant to Maraji's demise in 1941, the names of his daughter Manibai and her daughter Yesubai were added as owners / holders in respect of the subject properties vide Mutation Entry Nos.1654 and 1656 both dated 08.05.1955. He would submit that thereafter vide Mutation Entry No.2019 dated 23.01.1959 name of Manibai i.e. daughter of Maraji was added as owner / holder of the subject properties on the basis of Heirship Certificate obtained by her.

5.7. In so far as substantive right claimed by the private Respondent namely Respondent No.1 and through by her daughter Ms. Priya Prabhakar Rane is concerned, he would make the following submissions on the basis of documents:-

5.8. He would submit that said Mr. Yeshwantrao Save expired on 03.06.1962. However before that he had prepared his Will dated 19.02.1960 under which he bequeathed all his properties including the

subject properties to one Ms. Sharda Ganpat Sawant (for short 'Sharda') i.e. the original Respondent No.1 who was the daughter of his close friend Balkrishna Pandurang Dalvi. He would submit that after his demise on 03.06.1962, the said Ms. Sawant never applied for any grant in respect of Yeshwantrao's said Will until 2012, when she filed Testamentary Petition in this Court bearing No.1853 of 2012 and obtained a probate.

5.9. He would submit that thereafter on the basis of probate, she initiated steps to mutate her name in the Revenue records / 7/12 extract which resulted in the present *lis* between the parties.

5.10. He would submit that in the meanwhile between 1978 and 1984, the legal heir of Maraji namely Manibai and her daughter Yesubai permitted M/s. Vijay Nagar Corporation, the Developer to carry out development on the subject properties admeasuring 6,429.10 square meters, on which 9 buildings were initially constructed by the Developer. He would submit that further Application was made to the Competent Authority and by order dated 26.06.1979, Deputy Collector, Mumbai Suburban District permitted conversion of user of the larger property from Agricultural to Non-Agricultural user (NA) which included the subject properties.

5.11. He would submit that in the same development by M/s. Vijay Nagar Corporation on the subject properties, on 16.01.1982 son-in-law

of Ms. Sawant who is married to her daughter Ms. Priya Prabhakar Rane purchased Flat No.105 on the first floor in one of the building being constructed thereon by the Developer. He would vehemently submit that this is one more strong circumstance to show that Respondent No.1 was fully aware about substantial development being carried out over the years on the subject properties, despite which no objections whatsoever were ever raised by her. He would submit that on 27.09.1985, amended NA order was passed by the Deputy Collector, Mumbai Suburban District and on 01.10.1985, City Survey Officer on Application filed by Developer seeking consolidation and sub-division of various CTS numbers of the larger property admeasuring almost 1.49 lakh square meters noted, acknowledged and confirmed the fact that the subject properties were in possession of M/s. Vijay Nagar Corporation, the Developer.

5.12. He would submit that the last of the Mutation Entries in the names of the legal heirs of the deceased Manibai, daughter of Maraji were effected on 29.07.2010 (Mutation Entry No.5091), 10.07.2013 (Mutation Entry No.5229) and 03.01.2014 (Mutation Entry No.5273). Pursuant to these Respondent No.1 on the basis of probate obtained by her sought mutation of her name as owner / holder of the subject properties. Initially, Tahsildar by order dated 28.08.2015 rejected Ms. Sawant's Application seeking mutation. He would submit that the SDO allowed the Appeal directing that all earlier mutation entries be

cancelled and the said order was implemented and Mutation Entry No.5416 dated 09.01.2017 recorded the name of Ms. Sharda Ganpat Sawant in the Revenue records pertaining to the subject properties. The order of SDO was upheld by Collector and the Additional Divisional Commissioner which led to filing of the present Writ Petition.

5.13. Mr. Naphade would also apprise the Court that on 22.10.2021, Sharda Ganpat Sawant filed Suit No.2576 of 2021 in the Bombay City Civil Court against the legal heirs of Maraji Mhatre seeking permanent injunction from her occupation of the subject properties. He would submit that on 24.02.2022 Sharda Ganpat Sawant expired survived by her daughter Ms. Priya Prabhakar Rane and on the basis of her Will, she bequeathed the subject properties to Ms. Priya Prabhakar Rane. He would draw the attention of the Court to the fact that on the basis of the Will of Ms. Sharda Ganpat Sawant, Revenue Authorities mutated name of Ms. Priya Prabhakar Rane in the Revenue records / 7/12 extract vide Mutation Entry No.5689 dated 05.04.2022. He would draw my attention to an averment made in Writ Petition No.17123 of 2024 which is also being heard alongwith the present Petition wherein a false assertion and incorrect submission is made by Ms. Priya Prabhakar Rane, the Petitioner therein that the order dated 23.12.2019 of the Additional Divisional Commissioner had become final and was not challenged despite pendency of Writ Petition

No.5806 of 2022.

5.14. He would submit that the said Ms. Priya Prabhakar Rane recently filed fresh Civil Suit No.347 of 2025 on 19.07.2025 in this Court seeking declaration of ownership of subject properties wherein in paragraph No.9 she has made another false averment / assertion that she became aware about development on the subject properties only in the year 2024 and therefore the Suit is not time barred.

5.15. Mr. Naphade, learned Advocate has also referred to and relied upon the following three judgments in support of his above submission and arguments:-

- (i) *Laxman Krushna Sangade Vs. Hari s/o. Bhima Pokharkar (since deceased) through his heirs Kamalabai w/o Hari Pokharkar and Anr.*¹;
- (ii) *Shrikant R. Sankanwar and Ors. Vs. Krishna Balu Naukudkar*²; and
- (iii) *State of Gujarat Vs. Patil Raghav Natha and Ors*³.

5.16. He would vehemently argue that the act of quasi judicial officers / Revenue Officers in the present case in relation to Mutation entry being certified and earlier long standing entries being cancelled is the principal objection raised by the Petitioners. He would submit that neither Section 149 nor Section 150 of MLRC, 1966 empowers the

¹ 2023 SCC OnLine Bom 2571 : (2024) 1 Mah LJ 640

² 2003 SCC OnLine Bom 46 : (2003) 2 Mah LJ 276

³ (1969) 2 Supreme Court Cases 187

Revenue Authorities / Officers acting thereunder and according to the procedure prescribed under the Rules or give them power to adjudicate upon entitlement rights of the parties or title to immovable properties. He would submit that the said provisions merely allow dealing with Revenue records to be updated in relation to immovable properties for the purpose of assessment of revenue and collection thereof. He would submit that Respondent No.1 – Priya Prabhakar Rane has also realized the same and has accordingly filed an injunction Suit on 22.10.2021 and a declaratory Suit now on 19.07.2025 seeking declaration of ownership of subject properties. He would submit that these subsequent circumstances of Respondent No.1 having filed two Suits itself negates her case for seeking mutation of Revenue records in her name and falsifies her case of entitlement and possession.

5.17. He would submit that in the present case, Revenue Officers have effected and certified Mutation Entry No.5416 dated 09.01.2017 whereby Ms. Sawant's name was added as holder of subject properties by deleting long standing Revenue entries for over 7 decades of the names of legal heirs of Maraji. He would submit that thereafter Revenue Officers have certified Mutation Entry No.5689 dated 05.04.2022 whereby Ms. Priya Prabhakar Rane's name is mutated in place of Ms. Sawant. He would submit that both these acts of Revenue Officers stand completely belied in view of the twin Suits filed by Priya Prabhakar Rane on 22.10.2021 and 19.07.2025 and therefore orders

passed by quasi judicial authorities which are subject matter of challenge in present Writ Petition are sustainable and deserve to be set aside.

5.18. He would submit that a Will cannot confer title on the legatee which is the basis of claim of Ms. Sharda Ganpat Sawant in the present case that too after a substantial delay rather gross delay of almost more than 55 years after the demise of Mr. Yeshwantrao Save in 1968. He would submit that the very fact that an injunction and declaratory Suits filed by Respondent No.1 are an admission of her part that she requires declaration of ownership from the Civil Court and therefore continuation of her name in the Mutation Record is not justified at all.

5.19. He would submit that for Ms. Sharda Ganpat Sawant to succeed in the Revenue proceedings she has first to establish and make out her own positive case for entitlement that during the lifetime of her predecessor-in-title, he had become the owner of the subject properties which was passed onto her. He would submit that this is the co-issue required to be looked at which is a pure point of law by this Court for deciding the present Petition. He would submit that at no stage of time Yeshwantrao Save, the predecessor-in-title of Sharda Ganpat Sawant made any attempt during his lifetime to mutate and/or implead his name as owner of the subject properties. He would submit that in

order to do so Yeshwantrao Save had to seek transfer of the subject properties in his name. He would submit that the Mortgage Deed executed between Maraji Mhatre and Yeshwantrao Save never fructified or culminate into ownership of the subject properties in favour of Yeshwantrao since it required Maraji Mhatre to have the properties transferred and registered in the name of Yeshwantrao Save. He would submit that a Mortgage Deed all by itself cannot confer title of ownership of the Mortgagee. He would submit that given that Yeshwantrao Save during his lifetime did not make any Application to implead / mutate his name as owner of the subject properties and until 2014 none of his legal heirs assert any ownership rights in respect of the subject properties and never objected to the massive construction on the subject properties over a period of over 50 years is a very strong circumstance which needs appropriate consideration by the Court to show that the Mortgage Deed did not culminate into ownership of the subject properties in favour of Yeshwantrao Save. He would submit that such *prima facie* observations can certainly be made by the Court which is infact an admitted position on record and cannot be denied by anybody.

5.20. He would therefore persuade the Court to allow the Petition and set aside the three concurrent impugned orders passed by the quasi judicial authorities, *inter alia*, attempting to determine and adjudicate title in favour of Respondent No.1 and leading to mutating

her name as holder / owner of the subject properties and confirm the order dated 28.08.2015 passed by the Tahsildar.

6. Mr. Saraf, learned Senior Advocate appearing for the Respondent No.2 – Developer - M/s. Vijay Nagar Corporation supports the case of the Petitioners in this Petition and in that view of the matter his submission are recorded before the rival submissions are considered. He would make the following submissions for due consideration of the Court.

6.1. He would submit that there is admittedly no document of transfer after the 1938 Mortgage Deed by which Mr. Maraji Mhatre transferred the subject properties to Mr. Yeshwantrao Save. He would submit that no Suit has been filed by Yeshwantrao Save during his lifetime or thereafter by any person claiming through or under him to seek foreclosure of the 1938 Mortgage Deed or to seek execution of conveyance and transfer of the subject properties in his favour.

6.2. He would submit that a Suit for injunction is filed in 2021 and another Suit seeking declaration of ownership and title in respect of the subject properties has now been filed on 19.07.2025 by the Respondent No.1 – Priya Prabhakar Rane who claims the subject properties through Mr. Yeshwantrao Save. He would submit that even after filing of the twin Suits, the same have not been moved for any ad-interim / interim relief and such fact has been suppressed from this

Court in the present Writ Petition by Respondent No.1.

6.3. He would submit that Respondent No.1's claim through Mr. Yeshwantrao Save's purported Will of 1960 which only surfaced in the year 2012 and in respect of the Letters of Administration was granted by this Court to Ms. Priya Prabhakar Rane incidentally are the subject matter of challenge in Misc. Petition No. 629 of 2024 filed by the legal heirs of Mr. Maraji Mhatre seeking revocation of the said grant i.e. Letters of Administration with Will annexed. He would submit that this Misc. Petition is pending in this Court as on date. He would submit that though it is Petitioners' case that monies received under the 1938 Mortgage Deed was never repaid back by Mr. Maraji Mhatre and therefore the properties under mortgage were never redeemed, but he would vehemently submit that after Mr. Mhatre's demise in 1941, his daughter Manibai Mhatre and thereafter her daughter Yesubai and thereafter their legal heirs and successors-in-title have been in continuous and uninterpreted possession of the subject properties and have dealt with them since the year 1975 openly. He would submit that there is no documentary evidence shown by Ms. Priya Prabhakar Rane – Respondent No.1 of the subject properties having been transferred and conveyed to Mr. Yeshwantrao Save after culmination of the five year mortgage period or even for the next 20 years thereafter during the lifetime of Mr. Yeshwantrao Save. He would submit that it is settled law that once a mortgage, always a mortgage

and mortgage cannot confer ownership rights and it also cannot take away the right of redemption of a party.

6.4. He would submit that in a mortgage by conditional sale, the mortgagee cannot become the full owner and cannot get title of ownership until a decree of foreclosure is obtained and in such a case when a mortgagor mortgages his immovable property, he does not cease to be its owner and the equity of redemption still vests in him, which is lost unto him only when there is a final decree or foreclosure or sale in favour of the mortgagee. He would submit that this admittedly has not happened in the present case and therefore the order impugned in this Petition is in law and legally unsustainable. He would submit that equally orders under challenge by Ms. Priya Prabhakar Rane in the companion Petitioners have been correctly passed setting aside her belated challenge to the consideration order of 01.10.1985 after a delay of 36 years.

6.5. He would submit that Respondent No.1 herself resides in one of the buildings constructed by the Developer over the said larger property which includes the subject properties and her husband has executed and registered the Agreement for Sale as far back as on 16.01.1982 for purchase of flat in one of the buildings constructed by the Developer wherein he has acknowledged the title of the legal heirs of Mr. Maraji Mhatre to the subject properties and grant of

development rights in favour of M/s. Vijay Nagar Corporation.

6.6. He would submit that Revenue Authorities therefore cannot decide title and issue direction for mutation of names of parties without the parties showing any semblance of legal right or entitlement in accordance with law. He would submit that impugned orders now stand belied due to Ms. Priya Rane herself filing a declaratory Suit in 2025

6.7. With regard to challenge in Writ Petition No.17123 of 2024, he would submit that the said Petition arises out of Respondent No.1- Priya Prabhakar Rane's attempt to get her name mutated as occupant of subject properties in the Revenue Record / 7 /12 extract and deletion of names of successors-in-title of Mr. Maraji Mhatre which were long standing mutation entries over the past 70 years with regard to the subject properties.

6.8. With regard to challenge in Writ Petition No.16623 of 2025, he would submit that it arises out of Respondent No.1's – Priya Prabhakar Rane's proceeding to challenge the order dated 01.10.1985 passed by the City Survey Officer directing amalgamation and subdivision of the larger property which includes the subject properties as per layout sanctioned and approved by the Municipal Corporation. He would submit that as per the approved layout development has been completed on almost all the plots over the past 35-40 years,

certain plots and parcels out of the larger property have been reserved and handed over to the Municipal Corporation for development of roads and amenities and for the remaining plots the successors-in-title of Mhatre family have been shown as holder / owner in the Revenue record until those entries were disturbed in 2015. He would submit that such challenge after a hiatus of almost 40 years ought not to have been entertained in the facts and circumstances of the case wherein substantive third party rights are created. He would submit that the only ground of challenge by Ms. Priya Prabhakar Rane is that no notice was served on the predecessor-in-title of the Petitioner prior to passing of the amalgamation and subdivision order in 1985.

6.9. He would submit that the 1985 CSO order directing amalgamation and subdivision was passed after conducting a survey by the Licensed Surveyor of the CSO office of the entire larger property including the subject properties and after determining who was in actual possession and occupation thereof under Section 2(12) of the MLR Code. He would submit that under Rule 11 read with Rule 15 of the Maharashtra Land Revenue (Revenue Surveys and Sub-divisions of Survey Number) Rules, 1969, amalgamation and subdivision of survey numbers can be carried out by issuing a general notice in the village and by individual notices to be served upon the holder of the concerned property and as per Section 2 (12), the holder of the land means a person who is in lawful possession and occupation of the said

land. He would therefore submit that the ground of challenge in Writ Petition No.16623 of 2025 is on the face of record un-sustainable in accordance with law.

6.10. He would submit that Civil Writ Petition No.16325 of 2025 pertains to condonation of delay allowed to the Petitioner therein i.e. Ms. Priya Prabhakar Rane to challenge the 1985 CSO order. He would submit that the Deputy Superintendent of Land Records (DSLRL) has allowed Application for condonation of delay which is entirely silent as to how delay had occurred and reasons for the same and therefore the said Writ Petition ought to be dismissed in *limine*.

6.11. He would submit that in the delay condonation Application filed by Ms. Priya Prabhakar Rane before the DSLRL, there is no proper justification for the delay and as to why no steps were taken by her or her predecessor Ms. Sharda Ganpat Sawant to ascertain the status of the subject properties and Revenue records.

6.12. He would vehemently submit that the order of DSLRL condoning the delay is *prima facie* perverse because it does not consider the quantum and/or reasons for the delay, but allows condonation merely on the ground that the matter requires adjudication on merits. He would submit that the said observation of DSLRL has therefore been rightly set aside by the State which is the order impugned in Writ Petition No.16325 of 2025.

6.13. He would submit that on balance of convenience the consequences of setting aside the CSO's order would render the entire development which has been carried out on the larger property on the as also the subject properties over a period of more than 50 years since 1976 redundant and negatory. He would submit that more than 69 buildings have been developed on the larger property between 1968 and 1991 which are occupied by thousand of flats owners / purchasers.

6.14. He would submit that in any event any such order can only be passed if Respondent No.1 – Ms. Priya Prabhakar Rane succeeds in her declaratory Suit which she has now filed on 19.07.2025 after realizing that without any declaratory ownership of title mere mutation of her name in the Revenue Record will not give her any right whatsoever in the subject property. He would therefore urge the Court to allow Writ Petition No.5806 of 2022 and dismiss Writ Petition Nos.17123 of 2024, 16325 of 2025 and 16623 of 2025.

7. There are several Interim Applications filed by Intervenors seeking to be heard who are Co-operative Housing Societies standing on the subject properties as well as the larger property which is the subject matter of *lis* between the parties. They have all intervened in the present proceedings.

8. Mr. Kadam, learned Senior Advocate appears for some of the

Intervenors who are 21 Housing Societies seeking to intervene in Writ Petition Nos.16325 of 2025 and 16623 of 2025 filed by Ms. Priya Prabhakar Rane. Since the Intervenors are supporting the case of the Petitioner and Developer in Writ Petition No.5806 of 2022, I deem it fit to record their submissions before I proceed to record the rival submissions of Ms. Priya Prabhakar Rane made through her Advocates.

9. Mr. Kadam, learned Senior Advocate appearing for some Intervenors in Interim Application (L) No.1732 of 2026 in Writ Petition No.16325 of 2025 and Interim Application (L) No.2099 of 2026 filed in Writ Petition No.16623 of 2025 makes the following submissions:-

9.1. He would submit that Applicant – Yogi Ganga Co-operative Housing Society is a society of 21 families occupying a G+4 building and is one of over 54 buildings on the ‘Yogi Nagar’ layout at Borivali, developed in 1979 – 1981, which was duly sanctioned and thereafter amended pursuant to the DILR 01.10.1985 amalgamation and subdivision order.

9.2. He would submit that astonishingly, after an unexplained delay of 36 years, the Petitioner – Ms. Priya Prabhakar Rane challenged the amalgamation order and her plea has found favour with the DSLR issuing orders dated 03.08.2022 and 22.03.2022 and thereafter with the DDLR issuing orders dated 18.03.2024 and 24.12.2024. He would however submit that neither authority has at

the threshold addressed absence of sufficient cause nor furnished any reasons for condoning such gross and extraordinary delay. He would submit that by order dated 07.10.2025, the State through the Revenue Minister has rightly set aside those orders, holding that no case for condonation is made out and no reasons have been given for such condonation. The State also correctly recorded that Petitioner's predecessor was at the most mere mortgagee who never challenged the Non-Agricultural orders issued in 1979, nor the MCGM's layout approval nor filed any Civil Suit.

9.3. He would submit that the State is right holding that any reversal at this stage would gravely prejudice the Applicant and the other Societies since over 54 buildings have stood on the land for decades.

9.4. He would submit that Applicant's building, like the others is now over 40 years old and is in dire need of redevelopment. He would submit that by virtue of Minister's 60 day interim stay of his own orders, continued by this Court on 01.12.2025, Applicant's rights to effect mutation in the Revenue record and proceed with redevelopment has been paralyzed, hence the urgency is therefore immediate and the interim order deserves to be vacated.

9.5. He would adopt the all principal submissions on merits made by Mr. Naphade and Mr. Saraf which for the sake of brevity are not

repeated and reiterated herein. He would in addition thereto draw my attention to the fact that registered deed of conveyance is executed by the Deputy Director Registrar in favour of Applicant – Societies on the basis of deemed conveyance certificates granted to the Societies who have now stepped into the shoes of Mr. Maraji Mhatre's legal heirs and M/s. Vijay Nagar Corporation – the Developer. He would therefore persuade the Court to dismiss the Writ Petitions filed by Ms. Priya Prabhakar Rane challenging the order of amalgamation and subdivision passed by the CSO in 1985 with regard to development of the subject properties.

10. ***PER CONTRA***, Mr. Akshay Shinde, learned Advocate appearing on behalf of Ms. Priya Prabhakar Rane, the legal heir of Sharda Ganpat Sawant in Writ Petition No.5806 of 2022 and on behalf of Ms. Priya Prabhakar Rane, Petitioner in Writ Petition No.17123 of 2024 would attempt to refute the case of the Petitioners in Writ Petition No.5806 of 2022 and make the following submissions:-

10.1. He would submit that admittedly name of Yeshwantrao Save was mutated in Revenue Records as per registered Mortgage Deed dated 01.12.1938 by Mutation Entry No.552. He would submit that Mr. Yeshwantrao Save executed Will dated 19.02.1960 in favour of Ms. Sharada Sawant (Mother of Ms. Priya Prabhakar Rane). He would submit that Ms. Sharada Sawant filed Testamentary Petition No.1853

of 2012 before this Court for obtaining probate of said Will.

10.2. He would submit that this Court granted probate on 29.04.2014. He would submit that Sharada Sawant filed Application for mutating her name in record of rights as per Section 149 of Maharashtra Land Revenue Code, 1966 on the basis of grant of Probate by this Court. He would submit that after issuing notices and inviting objections under Section 150(2) of MLRC, 1966, though initially the Application to Tahsildar was rejected, it is subsequently allowed by SDO, Bandra, Deputy Collector and Additional Commissioner, Konkan Division in their Appellate and Revisional Jurisdiction respectively.

10.3. He would submit that accordingly, Mutation Entry No.5416 dated 09.01.2017 is recorded. He would submit that all above Authorities have acted as per provisions of Section 149 of MLRC, 1966 while deciding the Application of Ms. Sharada Sawant since she had acquired right in the subject properties under the probate granted by this Court, being successor to the mortgagee Mr. Yeshwantrao Save whose name was mutated by Mutation Entry No 552, which entitled her to request for necessary mutation in the record of rights. He would submit that thereafter her name was mutated pursuant to probate granted by this Court.

10.4. He would submit that it is obligatory on the part of Revenue

Authorities to mutate the names of successors-in-title on parties acquiring right in the property as held in the case of *Nalini w/o Onkar Patil Vs. Girdhar Kashinath Patil*⁴

10.5. He would submit that Writ Petition No.5806 of 2022 is challenging the Order dated 23.12.2019 passed by Additional Commissioner, Konkan Division and is therefore required to be dismissed in view of abovesaid submissions.

10.6. He would submit that Petitioner – Ms. Priya Prabhakar Rane in Writ Petition No.17123 of 2024 was not aware about filing of Writ Petition No.5806 of 2022 till it was intimated to her during hearing of Writ Petition No.17123 of 2024 along with other Petitions on 09.03.2026 before this Court.

10.7. He would submit that the Developer M/s. Vijay Nagar Corporation filed Revision proceeding before Additional Commissioner, Konkan Division challenging the order dated 30.03.2017 of Deputy Collector which is already confirmed by the Additional Commissioner, Konkan Division in its order dated 23.12.2019. Hence, he would submit that Application raising objection as to maintainability of Revision of M/s. Vijay Nagar Corporation is rightly raised by the Petitioner in Writ Petition No.17123 of 2024.

10.8. He would submit that since Application raising objection to

⁴ (2002) 4 MhLJ 728

maintainability of Revision is rejected, Petitioner filed Writ No.17123 of 2024 challenging the order dated 21.10.2024. He would submit that since the Revision proceeding filed by M/s. Vijay Nagar Corporation before the Additional Commissioner, Konkan Division is not maintainable, Writ Petition No.17123 of 2024 is required to be allowed by setting aside Order dated 21.10.2024 passed by the Additional Commissioner, Konkan Division.

11. Dr. Thorat, learned Senior Advocate has appeared for Ms. Priya Prabhakar Rane in Writ Petition No.16325 of 2025 and Writ Petition No.16623 of 2025 and made the following submissions:-

11.1. He would submit that present Writ Petitions under Article 227 of the Constitution of India challenge the impugned order dated 07.10.2025 passed by the Revenue Minister whereby delay is condoned by DSLR after full adjudication which erroneously sets aside the concurrent and well-reasoned findings recorded by the DSLR and affirmed by the Deputy Director of Land Records (DDLRL). He would vehemently submit that State has impermissibly interfered with proceedings which had attained finality after adjudication on merits and which have been unlawfully reopened in excess of its Revisional jurisdiction. He would contend that the impugned order is thus *ex-facie* illegal, arbitrary and perverse being in clear violation of settled principles governing limitation, finality of proceedings and the doctrine

of merger, as recognized by this Court in the case of *Shrichand Rajaram Kukreja Vs. State of Maharashtra*⁵.

11.2. He would submit that the core issue for consideration is whether the Revenue Minister in exercise of Revisional jurisdiction, could lawfully reopen and set aside the issue of delay after it had been duly condoned and the Appeal thereafter having been fully adjudicated upon merits and such adjudication been affirmed by the superior Appellate Authority thereby attaining finality.

11.3. He would submit that once proceedings culminate in a reasoned decision on merits, the order condoning delay stands merged with the final adjudication and ceases to have an independent existence and any subsequent attempt to reopen the issue of delay is legally impermissible and contrary to settled law.

11.4. He would submit that the issue of delay stood finally concluded and was not open to re-agitation, inasmuch as the DSLR, by a reasoned order dated 03.08.2022, condoned the delay after full hearing and thereafter the Appeal was decided on merits on 22.02.2023, and adjudication was affirmed by the DDLR on 24.12.2024, resulting in concurrent findings attaining finality.

11.5. He would submit that consequently, the delay order stood merged with the final adjudication and lost its independent existence,

⁵ Writ Petition No.2082 of 2023 – Decided on 17.04.2023.

and in law, once the *lis* is conclusively decided on merits, the issue of delay cannot be reopened in collateral Revisional proceedings.

11.6. He would submit that the doctrine of merger squarely applies to the present case, it being a settled principle that all interlocutory orders, including condonation of delay, merge into the final order. In the present case, the delay condonation order merged into the order passed on merits dated 22.02.2023, which was further affirmed on 24.12.2024, thereby conferring finality, and consequently, the issue of delay ceased to survive independently and could not be reopened.

11.7. He would submit that Petitioner relies upon the decision in the case of ***Shrichand Rajaram Kukreja** (supra)*, wherein it is held that once delay is condoned and the Appeal is decided on merits, the issue of delay becomes infructuous and cannot thereafter be reopened and in the absence of any stay, continuation of proceedings and adjudication on merits renders the issue of delay redundant.

11.8. He would submit that applying the aforesaid principle to the delay which was condoned in 2022 and the Appeal decided on merits in 2023, and such decision being affirmed in 2024, conferred finality. He would therefore submit that the present case stands on an even stronger footing and hence, the Minister had no jurisdiction to reopen the issue of delay.

11.9. He would submit that the Revenue Minister has acted without jurisdiction by reopening the concluded issue of delay, setting aside the condonation order and disturbing concurrent findings, thereby exercising appellate powers under the guise of Revision; under Section 257 of the Maharashtra Land Revenue Code and such interference is impermissible in the absence of perversity, which is not demonstrated.

11.10. He would submit that the impugned order is self-contradictory as the Revenue Minister has entertained the matter on merits while simultaneously setting aside the delay condonation orders. He would submit that if delay is not condoned, the proceedings themselves are not maintainable and therefore, the entire exercise stands vitiated.

11.11. He would submit that concurrent findings that delay was justified and amalgamation and sub-division order was illegal cannot be interfered with in Revisional jurisdiction unless it is shown to be perverse. He would submit that no such perversity is established and hence, the interference is unsustainable.

11.12. He would submit that in view of the above, the impugned orders suffers from patent jurisdictional error as it unlawfully reopens a concluded issue, and reflects an impermissible exercise of revisional power; the same, being arbitrary and unsustainable in law, deserves to

be quashed and set aside.

11.13. He would submit that, when the amalgamation and subdivision order was passed in 1985, it was the duty of the Competent Authority to issue notice to Ms. Sharda Ganpat Sawant, the legal heir / legatee of Mr. Yeshwantrao Save, which was never done and therefore the said order was correctly set aside by the quasi judicial authorities, which has been wrongly interfered with by the Revenue Minister.

11.14. On the basis of the above submissions, he would submit that Writ Petition Nos.17123 of 2024; 16623 of 2025 and 16325 of 2025 filed by Ms. Priya Prabhakar Rane be allowed and Writ Petition No.5806 of 2022 filed by Amol Govind Mhatre and others be dismissed.

12. In the present case, the substantive facts are not in dispute. Admittedly, the Mortgagee Mr. Yeshwantrao Save did not foreclose the Mortgage Deed and never sought transfer of the subject properties in his name from the legal heirs of Mr. Maraji Mhatre. There are four different timelines required to be considered for considering the substantive rights of Ms. Priya Prabhakar Rane seeking to invoke quasi judicial jurisdiction of the Competent Authority to mutate her name as holder / owner of the subject properties. The 5 year mortgage tenure expired in 1943, however Mr. Maraji Mhatre, the original owner of the subject properties expired prior thereto on 04.01.1941. There is no

communication by Mr. Yeshwantrao Save placed on record between 04.01.1941 and expiry of the Mortgage Deed on 30.11.1943. It is seen that rather it is an admitted position that the Mortgage Deed cannot be construed to operate as in conveyance in favour of Mr. Yeshwantrao Save and only in the event of failure on the part of Mr. Maraji Mhatre to repay the loan and redeem the mortgage, after the tenure was over, he was required to transfer and register the subject property in the name of Mr. Yeshwantrao Save. However, since he expired prior to the tenure being over, Mr. Yeshwantrao Save did not take any steps whatsoever to intimate his legal heirs until the tenure got over and even thereafter for a further period of more than 18 years upto 03.06.1962 when Mr. Yeshwantrao Save expired. For Priya Prabhakar Rane to maintain any semblance of right flowing and derivatived to her from Mr. Yeshwantrao Save in regard to the subject properties, it needs to be *prima facie* proved by her that the Mortgage Deed was foreclosed and ownership of the subject properties was transferred and registered in the name of Mr. Yeshwantrao Save. Curiously during the lifetime of Mr. Yeshwantrao he never made any attempt even once to seek transfer of subject properties in his name.

13. What is crucial to understand and known is that when the Mortgage Deed was executed, Mutation Entry No.552 dated 13.02.1939 was certified whereby Mr. Yeshwantrao Save's name was added in the other rights column in respect of the subject properties

based on the Mortgage Deed. This is one of the strongest circumstance which ought to have prevailed over the quasi judicial authorities before they directed mutation of the name of Ms. Priya Prabhakar Rane as the holder / owner of the subject properties by deleting the names of the subsisting successors-in-title of Mr. Maraji Mhatre after several decades. This issue is *prima facie* evident on the face of record and therefore in my *prima facie* opinion there is an inherent perversity in passing of the impugned orders by the quasi judicial authorities on the premise that the *lis* raised by Ms. Priya Prabhakar Rane requires adjudication on merits.

14. The conduct of the parties seeking such invocation of their substantive rights is evident when Ms. Sharda Ganpat Sawant, the mother of Ms. Priya Prabhakar Rane filed Suit for Injunction bearing No.2576 of 2021 in the Bombay City Civil Court seeking permanent injunction from her occupation of the subject properties. The said Suit is falsified on the face of record, especially when it is an admitted position that the said Ms. Sharda Ganpat Sawant was never in possession of the subject properties. A Suit for permanent injunction would lie only if there is a comprehensive settled title in favour of the party seeking such relief. This fact is later realised by Ms. Priya Prabhakar Rane when she herself filed fresh Suit on 19.07.2025 bearing No.347 of 2025 in this Court seeking declaration of ownership with regard to the subject properties. This conduct *prima facie* shows

complete arbitrariness and borders clearly on illegality. It is seen that every attempt is made by Ms. Priya Prabhakar Rane to improvise the facts in the present case to suit her convenience.

15. Next period between 1969 and 2014 is extremely critical. Ms. Sharda Ganpat Sawant who approached this Court for the first time in the year 2012 to seek probate of the Will of Mr. Yeshwantrao Save never took any steps whatsoever to stake her claim as legal heir / legatee under his Will to the subject properties especially when substantive development took place during this time. Infact her own daughter Priya Prabhakar Rane and her husband purchased one flat in the year 1982 in one of the buildings developed on the subject properties and have been living thereon since then. During this entire period, admittedly no steps were taken either by Ms. Sharda Ganpat Sawant or by Priya Prabhakar Rane, her daughter.

16. The third period is between 2015 and 2021 during and after which Sharda Ganpat Sawant approached this Court and filed Civil Suit No.2576 of 2021 seeking injunction. During this period, it is seen that several Applications were made before the quasi judicial authorities / functionaries of the State Government under RTS proceedings seeking mutation of the name of Ms. Sharda Ganpat Sawant as holder / owner on the basis of probate obtained by her thereby displacing the names and substantive rights of the subsisting

holders of the subject properties which had stood fructified for several decades. It is critical to note that despite Yeshwantrao Save's name having entered into "other rights" column of the Revenue record, the authorities have wrongly construed him to be the holder and owner and therefore determined title of the parties.

17. Next the period for consideration is between 2021 and 2025 when looking at the nature of the orders passed, Ms. Priya Prabhakar Rane realised that she now had to file a declaratory Suit seeking ownership of the subject properties, which is filed in July 2025, after her challenge to the deemed conveyance was unsuccessful.

18. The aforesaid conduct of Ms. Priya Prabhakar Rane does not inspire any confidence of the Court at all on all parameters for seeking injunctive relief whether it be *prima facie* case, balance of convenience or irreparable loss. The conduct of Ms. Priya Prabhakar Rane clearly borders on extortion since the lucrative redevelopment of Yogi Nagar Society comprising of several old buildings is now on the anvil and such redevelopment has driven the parties to file quasi judicial proceedings to alter Revenue records without approaching the Civil Court. The Civil Court has been approached seeking declaratory relief of ownership only on 25.07.2025 for the first time and surprisingly no steps have taken by Ms. Priya Prabhakar Rane to seek any ad-interim / interim reliefs therein since then. This conduct of Ms. Priya Prabhakar

Rane itself explains her dubious intentions in filing the quasi judicial proceedings and does not entitle her to any interim reliefs.

19. In the interregnum, it is also seen that Yogi Swaroop Co-operative Housing Society, one of the intervening Society has been issued the Occupation Certificate for its buildings on 25.09.1981 and has been granted deemed conveyance order on 15.02.2023 by the Competent Authority.

20. Next it is seen that Yogi Kutir Co-operative Housing Society, another intervening Society has been issued the Occupation Certificate for its buildings on 10.08.1982 and has been granted deemed conveyance order on 20.07.2017 by the Competent Authority.

21. Next it is seen that Yogi Villa Co-operative Housing Society, another intervening Society has been issued the Occupation Certificate for its buildings on 14.07.1981 and has been granted deemed conveyance order on 15.02.2023 by the Competent Authority.

22. Next it is seen that Yogi Krishna Co-operative Housing Society, another intervening Society has been issued the Occupation Certificate for its buildings on 25.02.1981 and has been granted deemed conveyance order on 07.03.2022 by the Competent Authority.

23. Next it is seen that Yogi Apartment Co-operative Housing Society, another intervening Society has been issued the Occupation

Certificate for its building on 25.09.1981 and has been granted deemed conveyance order on 06.03.2025 by the Competent Authority.

24. It is seen that several Societies developed and standing on the subject properties have also been granted deemed conveyance certificates which I am informed are under challenge without impleading the owners as parties.

25. Therefore the decisions of the quasi judicial authorities in the present case clearly requires interference by this Court. It is settled position in law that Revenue authorities cannot decide title where disputed questions of facts are involved. Dispute in the present case *prima facie* emanates from gross delay and laches which is evident on the face of record which is glossed over by the quasi judicial authorities.

26. Reliance placed by the Developer, who has developed the entire Yogi Nagar layout since the year 1978 onwards, the Developer having obtained amalgamation and subdivision order and NA order with regard to the subject properties being included in the larger layout without either Ms. Sharda Ganpat Sawant taking any steps during her lifetime and Ms. Priya Prabhakar Rane also not taking any steps cannot justify passing of the concurrent impugned orders dated 31.12.2016, 30.03.2017 and 23.12.2019 which are the subject matter of challenge in Writ Petition No.5806 of 2022. These orders will

therefore have to be interfered with by this Court.

27. Similarly on the above facts and in that view of the matter, the orders under challenge passed by the State in Writ Petition No.16623 of 2025 and Writ Petition No.16325 of 2025 will have to be upheld and confirmed.

28. It is seen that Ms. Priya Prabhakar Rane's attempt to interfere with the conveyance of the subject properties in favour of the respective Co-operative Housing Societies has been defeated by this Court vide order dated 24.01.2025 passed in Writ Petition No.1256 of 2025 (Coram: Sandeep V. Marne, J.) copy of which is appended at page No.346 of the Affidavit-in-Reply of Respondent No.2 in Writ Petition No.16623 of 2025. It is seen from order that this Court has clearly directed the said Ms. Priya Prabhakar Rane to file a Civil Suit to pursue her purported rights which has been subsequently filed in the month of July 2025.

29. In this regard, the ratio in the case of *Seth Ganga Dhar Vs. Shankar Lal and Ors.*⁶ clearly applies to the facts and proceedings of the present case.

30. Once Ms. Priya Prabhakar Rane is unable to show any material or evidence with regard to fructification of right in favour of Mr. Yeshwantrao Save with regard to the subject properties pursuant

⁶ 1958 SCC OnLine SC 151

to the Mortgage Deed of the year 1938, her case cannot be accepted.

31. Next the decision in the case of ***Pandurang Maruti Dombale Vs. Bapurao Piraji Owl and Ors.***⁷ and more specifically paragraph No.7 thereof, *inter alia*, reflecting the legal position of clause (c) of Section 58 of the Transfer of Property Act with regard to Mortgage by conditional sale once again clearly applies to the facts and circumstances of the present case. The scheme of clause (c) of Section 58 clearly indicates that the only remedy of a Mortgagee by conditional sale is to apply for foreclosure and not for a decree of sale. For ease of convenience, paragraph Nos.6, 7 and 8 of the said decision are reproduced below:-

“6. It is important to remember that mortgage is a transfer of interest in specific immovable property towards "security for repayment of a debt". The interest itself may be different in different forms of mortgage. In a simple mortgage, what is transferred is a power of sale, whilst in a usufructuary mortgage it is the right of the mortgagor to the enjoyment of the usufruct. In a mortgage by conditional sale or an English mortgage what is transferred is the right of ownership subject to a condition that on default of payment on a certain date the sale shall become absolute, or that on such payment being made the sale shall become void, or that on such payment being made the buyer shall transfer the property to the seller. Whatever be the form of mortgage, the transfer is of "some" interest only and not of the "whole" interest of the mortgagor. Unlike in the case of a sale in payment of a debt which extinguishes the debt, the debt always subsists in a mortgage. When a mortgagor mortgages his immovable property, he does not cease to be its owner; the equity of redemption still vests in him. This equity is lost unto him only when there is a final decree of foreclosure or sale in favour of the mortgagee. This has always been our law and a mortgage by conditional sale is no exception to it.

7. The statutory provisions, which are reflected in Sections

⁷ 2017 (5) Mh.L.J. 718

58, 60 and 67 of the Transfer of Property Act and Order XXXIV of the Code of Civil Procedure make this position clear. Clause (a) of Section 58 of the Transfer of Property Act defines a mortgage as "transfer of an interest in specific immovable property for the purpose of securing the payment of money advanced or to be advanced by way of loan, an existing or future debt, or the performance of an engagement which may give rise to a pecuniary liability." Clause (c), which deals with mortgage by conditional sale, provides as follows :

" (c) **Mortgage by conditional sale.** ---- Where the mortgagor ostensibly sells the mortgaged property-

on a condition that on default of payment of the mortgage-money on a certain date the sale shall become absolute, or

on a condition that on such payment being made the sale shall become void, or

on a condition that on such payment being made the buyer shall transfer the property to the seller,

the transaction is called mortgage by conditional sale and the mortgagee, a mortgagee by conditional sale:

8Provided that no such transaction shall be deemed to be a mortgage, unless the condition is embodied in the document which effects or purports to effect the sale."

Section 60 of the Transfer of Property Act provides for the mortgagor's right to redeem. At any time after the principal money has become due, the mortgagor has a right, on payment or tender of the mortgage money, at a proper time and place, to require the mortgagee to deliver to the mortgagor the mortgage-deed and all documents relating to the mortgaged property which are in possession or power of the mortgagee and at the cost of the mortgagor either to re-transfer the mortgaged property to him or to his nominee and to have registered an acknowledgement in writing that any right in derogation of his interest transferred to the mortgagee has been extinguished. Section 67 deals with the mortgagee's right to foreclosure or sale. In the absence of a contract to the contrary, the mortgagee has, at any time, after the mortgage-money has become due to him and "before a decree has been made for the redemption of the mortgaged property" or before the mortgage-money has been paid or deposited as provided in Section 67, a right to obtain from the Court a decree that the mortgagor shall be absolutely debarred of his right to redeem the property or a decree that the property be sold. It is pertinent to note that the right to seek foreclosure is not available to any mortgagee other than a mortgagee by conditional sale or a mortgage under an

anomalous mortgage by the terms of which he is entitled to foreclose. So also, the right to seek sale is not available to a usufructuary mortgagee or a mortgagee by conditional sale. What the scheme of this Section indicates is that the only remedy of a mortgagee by conditional sale is to apply for foreclosure and not for a decree of sale. Order XXXIV, Rule 2 of the Code of Civil Procedure proceeds for a preliminary decree in a foreclosure suit. By this preliminary decree, the Court orders an account to be taken of what is due to the plaintiff on the date of such decree towards principal, interest, costs, etc. and declares the amounts so due at that date and directs that if the defendant pays into court the amounts so declared as due on or before such date as the court may fix within six months of the court confirming and countersigning the account, the plaintiff shall deliver up to the defendant, or to such person as the defendant may appoint, all documents relating to the mortgage of the property and re-transfer, if so required, the property to the defendant at his cost free from the mortgage (sub-rule (1) of Rule 2). Rule 3 of Order XXXIV provides for a final decree in a foreclosure suit. The rule provides that if, before a final decree debarring the defendant from all the right to redeem the mortgage has been passed, the defendant makes payment into the court of all amounts due to him under sub-rule (1) of Rule 2, the court shall, on application made by the defendant, pass a final decree ordering the plaintiff to deliver up the documents referred to the preliminary decree and, if necessary, to re-transfer the mortgaged property as directed in the decree. Only if such payment is not made by the defendant that the sg 8/10 sa306-94.doc court shall, on the application of the plaintiff, pass a final decree declaring that the defendant and all persons claiming through or under him are debarred from all right to redeem the mortgaged property. This scheme makes it clear that at all events, and in case of all mortgages, where a foreclosure decree can be passed, the mortgagor retains his right of redemption until a final decree of foreclosure is passed. As the law stands, there cannot, thus, be any exception to the impugned judgment and order of the first Appellate Court.

8. Learned Counsel for the Appellant relied on the judgment of the Supreme Court in the case of *Vanchalabai Raghunath Ithape vs. Shankarrao Baburao Bhilare*, 2013 (6) Mh.L.J. (S.C.) 80 = 2013 (12) LJSOFT (SC) 500. In the case before the Supreme Court, the plaintiff had filed a suit claiming redemption and re-conveyance of the suit property after accepting the amount of mortgage money. The defendant contested the suit by contending that the transaction in question was not a mortgage but an outright sale. The court actually went through the terms and conditions in the document and came to a conclusion that the transaction in question was an absolute sale with an agreement of repurchase. The court held that for the purpose of bringing a transaction within the meaning of mortgage by conditional sale, the first

condition was of an ostensible sale of the mortgaged property on a condition that the buyer shall transfer the property to the seller on payment of a certain sum. The Court held that though there was a presumption that the transaction was a mortgage by conditional sale when the whole transaction was contained in our document, merely because of a term incorporated in the same document, the transaction between the parties need not always be termed as a mortgage. In the particular case before it, the court found the document to be a document of absolute sale with a contract to repurchase rather than a mortgage by conditional sale. The plaintiff's suit, in the premises, was dismissed. This judgment has no bearing on the facts of our case, where the Plaintiff Appellant went to the Court with a specific case, as noted by me above, that the document executed was in the nature of mortgage by conditional sale."

32. Attention is also invited to paragraph Nos.17, 18 and 19 of the decision in the case of ***B.M.E.'s Bhagyanwan Cooperative Housing Society Limited Vs. District Supercontinent of Land Records and Ors.***⁸, *inter alia*, with regard to delay and the twin orders which are the subject matter of Writ Petition Nos.16623 of 2025 and 16325 of 2025 with regard to the condonation of delay which has been allowed by the quasi judicial authorities and subsequently set aside by the State which is impugned in the said Petitions. It is seen that bare perusal of the delay condonation Application filed by Ms. Priya Prabhakar Rane before the DSLR would reveal that there is no proper justification for the delay despite she being well aware about massive development on the subject properties.

33. The DSLR condonation order does not consider the quantum and/or the reasoning for the delay but only allows condonation on the

8 2025 SCC OnLine Bom 1208

ground that the matter requires adjudication of merits. This approach of the quasi judicial authorities directing requirement of adjudication on merits involves interference with entitlement of the parties and is therefore entirely perverse and cannot be countenanced.

34. That apart, the issue of delay is more of a concern in the facts and circumstances of the present case. It is *prima facie* seen that the explanation offered for delay is a mere bald statement without any reasons or substantiation that the party was unaware of the impugned order which is not sufficient to constitute a 'sufficient cause' warranting condonation of delay, especially when the delay is so prolonged and is over more than 40 years. In that view of the matter, attention is invited to paragraph Nos.15 to 19 of the decision in the case of ***B.M.E.'s Bhagyan Cooperative Housing Society Limited*** (*Supra*) which apply on all four squares to the facts of the present case.

They are reproduced below:-

"15. In my considered opinion, the approach adopted by both the Authorities under the MLRC is contrary to the well-settled principles of law governing condonation of delay. It is trite law that mere assertion of lack of knowledge or belated knowledge of an order, without explaining why due diligence was not exercised in the intervening period, cannot, by itself, be treated as a sufficient cause. Ignorance of an order for an unreasonably long period, without cogent and credible explanation, cannot be condoned lightly. The authorities have failed to appreciate that "sufficient cause" must be shown for the entire period of delay, and that a liberal approach cannot be adopted so as to defeat the rights that have accrued to the opposite party on account of long passage of time.

16. Both the Authorities have condoned the delay merely by placing reliance on general principles, without scrutinizing whether the explanation furnished was bona fide, satisfactory,

and covered the entire period of 11 years and 4 months. Such a casual and mechanical exercise of discretion cannot be sustained in law. The orders impugned, therefore, suffer from manifest arbitrariness and non-application of mind and are liable to be set aside.

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.”

35. The contents of paragraph Nos.17 and 19 herein above in the case of ***B.M.E.'s Bhagyan Cooperative Housing Society Limited*** (*Supra*) clearly apply to the facts and circumstances of the present case for upholding the orders passed by the State in Revision proceedings which is assailed in Writ Petition No.16325 of 2025.

36. In view of the above observations and findings, I am of the considered opinion that the order dated 31.12.2016 passed by the Sub-Divisional Officer, the order dated 30.03.2017 passed by the Collector and the order dated 30.03.2017 of Deputy Collector (Appeals) and the order dated 23.12.2019 passed by the Additional Commissioner, Konkan Division assailed in Writ Petition No.5806 of 2022 are clearly unsustainable and are therefore quashed and set aside. Resultantly the order dated 28.08.2015 passed by the Tahsildar is upheld and confirmed. All mutation entries as per this order are directed to be restored forthwith.

37. In so far as Writ Petition No.16623 of 2025 is concerned, the

order dated 07.10.2025 stands upheld and confirmed. Similarly in so far as the Writ Petition No.16325 of 2025 is concerned, the order dated 07.10.2025 passed by the State is upheld and confirmed.

38. In view of the above orders passed and the findings returned, in Writ Petition No.17123 of 2024 the order dated 21.10.2024 passed by Additional Commissioner, Konkan Division rejecting Priya Rane's representation against the Revision Application filed by the Developer - Vijay Nagar Corporation is upheld and confirmed.

39. All contentions of Ms. Priya Prabhakar Rane are kept open in the declaratory Suit proceedings which are filed by her seeking declaration of ownership of subject properties in accordance with law.

40. All parties are directed to act on a server copy of this order downloaded from the website of the High Court of Bombay without insisting on authenticated copy of this order.

41. In view of the above, Writ Petition No.5806 of 2022, Writ Petition No.17123 of 2024, Writ Petition No.16623 of 2025 and Writ Petition No.16325 of 2025 are disposed.

42. In view of the above, ad-interim order dated 01.12.2025 passed by this Court stands vacated forthwith.

43. All Interim Applications filed in the aforesaid Writ Petitions by the Intervenor namely Interim Application No.2275 of 2026;

Interim Application (St.) No.6676 of 2026; Interim Application No.1907 of 2026; Interim Application (St.) No.6646 of 2026; Interim Application (St.) No.6695 of 2026; Interim Application (St.) No.6709 of 2026; Interim Application (St.) No.2099 of 2026; Interim Application (St.) No.6671 of 2026; Interim Application (St.) No.6697 of 2026; Interim Application (St.) No.6673 of 2026; Interim Application (St.) No.6640 of 2026; Interim Application (St.) No.6668 of 2026; Interim Application (St.) No.6704 of 2026; Interim Application (St.) No. 6712 of 2026; Interim Application (St.) No.1732 of 2026; Interim Application (St.) No.6648 of 2026 and Interim Application (St.) No.6679 of 2026 are accordingly disposed.

[MILIND N. JADHAV, J.]

Ajay