



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

910 WRIT PETITION NO. 13712 OF 2017

Rama s/o Gunda Malkapure,	}
Age: 65 Years Occ: Agri.,	}
R/o : Ambulga, Ta. Chakur,	}
Dist. Latur	}
	Petitioner

Versus

- | | |
|--|---|
| 1. The State of Maharashtra | } |
| Through its Secretary | } |
| Revenue and Forest Department | } |
| Mantralaya, Mumbai-32 | } |
| 2. The Deputy Director of Land Record, | } |
| Aurangabad, Ta. & Dist. Aurangabad | } |
| 3. The District Superintendent of Land Record, | } |
| Latur, Tq. Dist. Latur. | } |
| 4. Hanumant s/o Tatya Garad, | } |
| Age:46 years, Occ: Agril, | } |
| R/o. Ambulga, Tq. Chakur | } |
| Dist. Latur | } |
| 5. Bhimrao s/o Hanumant Garad, | } |
| Age:58 years, Occ: Agril, | } |
| R/o Ambulga, Tq. Chakur | } |
| Dist. Latur. | } |
| 6. Dattatraya s/o Hanumant Garad, | } |
| Age:42 years, Occ: Agril, | } |
| R/o Ambulga, Tq. Chakur, | } |
| Dist. Latur | } |
| 7. Damayanti Baburao Shinde, | } |
| Under Guardian | } |
| Anusaya w/o Baburao Shinde | } |
| Age: 40 years, Occ: Agril, | } |
| R/o Madhav Niwas, Bharat Society, | } |
| Nanded Road, Latur | } |

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|------------------------------------|---|
| Tq. & Dist. Latur | } |
| 8. Baburao s/o Pandharinath Shinde | } |
| Age:45 years, Occ: Agril, | } |
| R/o. Madhav Niwas, Bharat Society, | } |
| Nanded Road, Latur | } |
| Tq. & Dist. Latur | } |
| 9. Shivaji s/o Nivrutti Garad, | } |
| Age:49 years, Occ: Agril, | } |
| R/o. Ambulga, Tq. Chakur, | } |
| Dist. Latur. | } |
- Respondents**

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Advocate for the Petitioner : Mr. Pankaj A. Bharat h/f Mr. U. L. Momale
 AGP for Respondents: Mr. D. R. Korde
 Advocate for the Respondent no.7 : Mr. Suhas. P. Urgunde

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CORAM : SIDDHESHWAR S. THOMBRE, J.
Date : 22.04.2026

JUDGMENT :

1. **Rule.** Rule made returnable forthwith. Heard finally with the consent of the parties at the stage of admission.
2. Heard the learned counsel for the respective parties.
3. The petitioner is aggrieved by the order dated 06.06.2017 passed by the learned Minister, whereby the revision preferred by respondent Nos. 4 to 6, came to be allowed and the order dated 09.03.2016 passed by the Deputy Director of Land Records, Aurangabad, directing restoration of the revenue record as it existed prior thereto, came to be set aside.

4. Mr. Pankaj Bharat holding for Mr. Momale, learned counsel for the petitioner submits that the petitioner purchased the suit property admeasuring 82 R by a registered sale deed dated 16.02.1982 executed by Shivaji and Sajabai. He submits that after the said purchase, due to the consolidation scheme, the area of the petitioner's land was wrongly reduced in the revenue record and, instead of 82 R, only 28 R came to be recorded in his name.

5. He further submits that the petitioner had filed Regular Civil Suit No.300/1996, wherein Shivaji and Sajabai were arrayed as defendants. By judgment and decree passed by the Civil Judge, Junior Division, Ahmedpur, the petitioner was declared owner of the suit property bearing Survey No.1/A, Gat No.228 admeasuring 82 R situated at Village Ambulga, Taluka Chakur, Dist. Latur. The said judgment and decree has attained finality as the same was not challenged by the defendants.

6. He further submits that once the Civil Court had declared the petitioner as owner of the suit property on the basis of the registered sale deed, the learned Minister ought not to have entertained the revision preferred by respondent Nos.4 to 6. He submits that pursuant to the application filed by the petitioner, the Superintendent of Land Records conducted an enquiry and, after considering actual possession, forwarded the draft scheme to the Deputy Director of Land Records for correction under Section 32(1) of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947. Thereafter, the draft scheme was

published and, after considering the objections raised by respondent Nos.4 to 6, an order dated 09.03.2016 came to be passed.

7. He submits that against the said order, respondent Nos.4 to 6 preferred a revision. The learned Minister allowed the revision by observing that in Regular Civil Suit No.47/2002, the registered sale deed executed in favour of the petitioner was set aside by judgment dated 21.12.2005. He submits that once the petitioner's title had already been declared by the Civil Court and the said decree had attained finality, the learned Minister ought not to have interfered with the order passed by the revenue authorities. He, therefore, prayed that the impugned order be set aside.

8. Per contra, Mr. Suhas Urgunde, learned counsel for respondent No.7 submits that Tukaram had filed Regular Civil Suit No.47/2002 against Shivaji, Sajabai, the present petitioner and others for partition and separate possession. The said suit was decreed by holding that the plaintiff Tukaram was entitled to a share in the suit property described in the plaint.

9. He submits that the said decree was challenged in Regular Civil Appeal No.47/2008 and the learned District Judge, Latur allowed the appeal and remanded the matter. He further submits that the said order was challenged before this Court in Appeal From Order No.8/2017, wherein this Court set aside the order passed by the Appellate Court.

10. He further submits that Shivaji and Sajabai had no right to execute

the sale deed in favour of the petitioner. He also points out that an earlier application filed by the petitioner was rejected by the Deputy Director of Land Records by order dated 04.12.1998 and, therefore, the subsequent application filed by the petitioner was not maintainable.

11. He submits that merely because an incorrect provision was mentioned in the revision application, the same cannot be held to be not maintainable. He further submits that the learned Minister was empowered to consider the revision and has rightly exercised jurisdiction. He has also relied upon the judgment of the Division Bench of this Court in *Dattu Patil & Ors. v. State of Maharashtra & Ors. 2007 (1) Mh.L.J 393* to contend that once the consolidation scheme was implemented, it was not permissible to alter the same after several years and, therefore, the petitioner's application was barred by limitation.

12. Having heard the learned counsel for the respective parties and upon perusal of the material on record, there is no dispute that the petitioner purchased the property admeasuring 82 R by registered sale deed dated 16.02.1982 executed by Shivaji and Sajabai. There is also no dispute that the petitioner filed Regular Civil Suit No.300/1996 and by judgment and decree passed therein, he was declared owner of the suit property. The said decree has attained finality.

13. It is an admitted position that prior to the consolidation scheme, the petitioner was owner of land admeasuring 82 R. However, after implementation of the consolidation scheme, only 28 R came to be

reflected in his name in the revenue record. The revenue authorities, being custodians of the record, are required to explain how such reduction occurred. The petitioner cannot be blamed for incorrect entries maintained by the authorities.

14. Once the petitioner has been declared owner and is in possession of land admeasuring 82 R, he cannot be deprived of his property merely on the ground of delay in seeking correction of the revenue record. No specific period of limitation is prescribed either under the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947 or under the Maharashtra Land Revenue Code, 1966 for seeking correction of such entries.

15. As regards the contention regarding rejection of the earlier application, it appears that while rejecting the earlier application, liberty was granted to the petitioner to approach the authorities after adjudication by the Civil Court. Since the earlier application was not decided on merits and thereafter the Civil Court declared the petitioner as owner, the subsequent application filed by the petitioner was maintainable.

16. It further appears that after due measurement and after granting opportunity of hearing to all concerned parties, the Superintendent of Land Records forwarded the draft scheme and objections raised by respondent Nos.4 to 6 were duly considered and rejected.

17. Merely because the consolidation scheme was implemented earlier,

the petitioner cannot be deprived of his property, particularly when the reduction in area occurred due to incorrect revenue entries. The right to property under Article 300-A of the Constitution of India cannot be defeated on the basis of erroneous entries. The right to property under Article 300-A of the Constitution reads as under:-

CHAPTER IV.—RIGHT TO PROPERTY

300A. Persons not to be deprived of property save by authority of law. -

No person shall be deprived of his property save by authority of law.

18. **The Black's Law Dictionary** defines Consolidation as the act or process of uniting; the state of being united. The **Advanced Law Lexicon** defines Consolidation as consolidation of two pieces of land, which are contiguous to one another, which are owned by same person and which can be cultivated as one piece of land.

19. The present case involves issue of reduction in the areas while implementing consolidation scheme. This is not the only case pertaining the same issue, rather there are thousands of similar cases wherein such issue is under adjudication. To address such long standing issue, it is necessary to refer to certain provisions of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947 (for short, "the Act"), which are as under:-

2. Definitions.

(2) "consolidation of holdings" means the amalgamation and where necessary the redistribution of holdings or portions of holdings in any village, mahal or taluka or any part thereof so as to reduce the number of plots in holdings;

(4) **“Fragment”** means a plot of land of less extent than the appropriate standard areas determined under this Act:

Provided that no plot of land shall be deemed to be a fragment by reason of any diminution in its area by diluvion;

(5) **“land”** means agricultural land whether alienated or unalienated;

(6) **“local area”** means any area notified as such in the Official Gazette, under section 3;

(8) **“owner”** means in the case of unalienated land the occupant or tenure holder]and when such lands has been mortgaged, owner means the mortgagors; in the case of alienated land owner.

means the superior holder

Provided that in the Hyderabad area of the State of Maharashtra, “owner” means a person who has permanent and heritable right of possession of land, and when unalienated land has been mortgaged, owner means the mortgagor;

(10) **“standard area”** in respect of any class of land means the area which the State Government may from time to time determine under section 5 as the minimum area necessary for profitable cultivation in any particular local area, and includes a standard area revised under the said section;”

3. Determination of local areas.—

The State Government may, after such inquiry as it deems fit, by notification in the Official Gazette, specify a village, mahal or taluka or tahsil or any part thereof as a local area for the purpose of this Act.

4. Settlement of standard areas.—

(1) *The State Government may, after such inquiry as it deems fit and after consultation with the District Advisory Committee or any other body, appointed by it, provisionally settle for any class of land in any local area the minimum area that can be cultivated profitably as a separate plot.*

(2) *The State Government shall by notification in the Official Gazette, and in such other manner as may be prescribed publish the minimum areas provisionally settled by it under sub-section (1) and invite objections thereto.*

6. Entry in the Record of Rights.—

(1) *On notification of a standard area under sub-section (3) of section 5 for a local area all fragments in the local area shall be entered as such in the Record of Rights or where there is no Record of Rights in such village record as the 13[State] Government may prescribe.”*

20. Chapter III of the Act deals with the procedure for consolidation and Section 15 provides that Government may of its accord, if it is essential, make a scheme for consolidation of holdings. Section 15 reads as under:---

“15. Government may of its own accord or on application declare its intention to make scheme for consolidation of holdings.

With the object of consolidating holdings in any village, mahal, taluka or tahsil or any part thereof for the purpose of better cultivation of lands therein, the State Government may of its own motion or on an application made in that behalf declare by a notification in the Official Gazette and by publication in the prescribed manner in the village or villages concerned its intention to make a scheme for the consolidation of holdings in such village or villages or part thereof as may be specified. On such publication in the village concerned the State Government may appoint a Consolidation Officer who shall proceed to prepare a scheme for the consolidation of holdings in such village or villages or part thereof, as the case may be in the manner hereinafter provided.”

21. Section 2(10a) defines village committee means a village committee constituted under Section 34A, which reads as follows:-

“34A. Constitution of village committees.—

(1) The village committee shall be constituted by the Consolidation Officer in the prescribed manner and it shall discharge and perform, in addition to the duties and functions imposed or assigned by this Act, such other duties and functions as may be prescribed for the purpose of this Act.

(2) Where at any time the Collector is satisfied that the village committee has refused or failed without reasonable cause or excuse to discharge the duties or perform the functions imposed or assigned by or under this Act or circumstances have so arisen that the committee has been rendered unable to discharge the duties or perform the functions aforesaid or it is otherwise expedient or necessary to do so he may by notification in the Official Gazette, either reconstitute, for the purposes of this Act, the village committee in accordance with the provisions of sub-section (1), or appoint some other authority to perform the functions or discharge the duties of the village committee under this Act; and thereupon all references to the village committee under this Act shall be deemed to include references to the village committee so reconstituted or the authority so appointed as the case may be.”

22. Section 15A provides for the scheme members to be followed in its

preparation. Section 15A reads as under:--

“15A. Preparation of scheme and principles to be followed in its preparation.

(1) The Consolidation Officer shall, after giving due notice to the land owners concerned and the village committee, visit each of the concerned villages, and shall, in consultation with the village committee, proceed to prepare a scheme for the consolidation of holding which shall include such statements, records and maps as may be prescribed.

(2) In preparing the scheme, the Consolidation Officer shall have regard to the procedure which the State Government may from time to time prescribe in regard to the number of blocks in which the village lands are to be grouped, the manner of allotting new plots to each owner, the recommendations of the village committee and such other matters as may be prescribed.

23. Section 16 provides for compensation which reads as under:

“16. Scheme to provide for compensation.—

(1) The scheme prepared by the Consolidation Officer shall provide for the payment of compensation to any owner who is allotted a holding of less market value than that of his original holding and for the recovery of compensation from any owner who is allotted a holding of greater market value than that of his original holding.

(2) The amount of compensation shall be determined so far as practicable, in accordance with the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894 (I of 1894).”

24. Section 19 deals with the publication of draft scheme and amendment draft scheme and Section 20 deals with the draft scheme for amended draft scheme.

“19. Publication of draft scheme and of amended draft scheme.—

(1) When a scheme of consolidation is ready for publication, the Consolidation Officer shall publish a draft thereof in the prescribed manner in the village or village concerned. Any person likely to be affected by such scheme, may, within thirty days of the date of such publication, communicate in writing to the Consolidation Officer any objections relating to the draft scheme.

(2) If any objections are received and after considering them, the Consolidation Officer considers it necessary to amend the draft scheme, he shall amend the draft scheme and publish the amended draft scheme as provided in sub-section (1). Any person likely to be affected by such

amended draft scheme, may, within thirty days of the date of such publication, communicate in writing to the Consolidation Officer any objections relating to the amended draft scheme.

(3) (a) Where no objections are received to the draft scheme published under sub-section (1) or to the amended draft scheme published under sub-section (2), such draft scheme or amended draft scheme,

(b) Where objections are received to the said draft scheme or amended draft scheme but the Consolidation Officer does not consider it necessary to amend the said draft scheme or amended draft scheme, such draft scheme or amended draft scheme, together with objections and his remarks thereon,

(c) Where objections are received to the said amended draft scheme and after considering the objections, the Consolidation Officer considers it necessary to amend further the amended draft scheme, such amended draft scheme as further amended together with the objections and his remarks thereon, shall be forwarded by the Consolidation Officer to the Settlement Commissioner for confirmation.”

20. Confirmation of draft scheme or amended draft scheme.—

(1) If on receipt of a draft scheme or an amended draft scheme under sub-section (3) of section 19, the Settlement Commissioner, after considering the objections, if any, and the remarks of the Consolidation Officer thereon and after being otherwise satisfied about the correctness of procedure followed by the Consolidation Officer and the allotment of holdings, and compensation or about there being no clerical or arithmetical mistake or error arising from accidental slip or omission, approves of the draft scheme, or, as the case may be amended draft scheme, he shall confirm it.

(2) If the Settlement Commission does not approve of the draft scheme or the amended draft scheme forwarded by the Consolidation Officer and considers it necessary to amend it, he shall further amend it and publish it as amended in the prescribed manner in the village or villages concerned. Any person likely to be affected by the draft scheme as so published may, within thirty days of the date of such publication, communicate his objections in writing to the Settlement Commissioner.

(3) If no objections are received within the period specified in sub-section (2), the Settlement Commissioner shall confirm the draft scheme as published under that sub-section. If any objections are received within the said period, the Settlement Commissioner shall after considering the objections confirm the draft scheme as published under sub-section (2) without any modifications therein or with such modifications therein as he may consider necessary.

25. Section 21 deals with enforcement of scheme and Section 22 deals with coming into force of the scheme, both of which read as under:-

21. Enforcement of scheme.—

(1) Upon the confirmation of any scheme under section 20, a notification stating that the scheme has been confirmed shall be published by the Settlement Commissioner in the Official Gazette, and the scheme as confirmed shall be published in the prescribed manner in the village or villages concerned.

(2) Within one year from the date of publication of the notification in the Official Gazette, under sub-section (1), the owners from whom compensation is recoverable under the scheme shall deposit the amount of compensation in the prescribed manner.

(3) The Consolidation Officer shall from the commencement of the agricultural year next following the date of publication of the notification in the Official Gazette, under sub-section (1) and in the prescribed manner, put the owners in possession of the holding to which they are entitled under the scheme and for doing so may in the prescribed manner, evict any person from any land which he is not entitled to occupy under the scheme:

Provided that, if two-thirds or more of the owners affected by the scheme agree to enter into possession of the holdings to which they are entitled under the scheme, the Consolidation Officer may put them in possession of such holdings from such earlier date as may be decided upon by such owners.

(4) If the Consolidation Officer is satisfied that any standing crops, trees, embankments or similar other improvements which were not taken into consideration at the time of determining the compensation payable by an owner of any holding under the scheme are found on such holding at the time of putting the owner in possession of such holding, or that any such standing crops, trees, embankments or similar other improvements which were taken into consideration at the time of determining the compensation payable by an owner of any holding have ceased to exist or are substantially damaged at the time of putting the owner in possession of such holding, he shall by order determine in the prescribed manner the additional compensation payable by the owner or, as the case may be, the reduction to be made in the compensation payable to the original owner of such holding. Where additional compensation is to be paid, it shall be deposited in the prescribed manner by the owner from whom it is recoverable, within one year from the date of the order passed by the Consolidation Officer for determining the additional compensation.

(5) If the owner from whom the compensation is recoverable fails to deposit it within the period specified in sub-section (2) or (4) or within such further period not exceeding one year as may be extended by the Consolidation Officer, it shall be recovered from him as an arrear of land revenue.

(6) If an owner refuses to accept possession of the holding to which he is entitled under the scheme, his rights in such holding may be allotted in the prescribed manner by the Consolidation Officer to any other person who pays the value of the holding and in such case the value realised after deducting the expense (hereinafter called "the net value") shall be paid to the owner and any other person having an interest in the holding.

(7) If no person is forthcoming to pay the value of the holding, the State Government may recover from the owner the compensation recoverable from him under the scheme as an arrear of land revenue or the

State Government may itself purchase the holding after paying the net value of the holding to the owner and any other person having interest in the holding.

22. Coming into force of scheme.—

As soon as the persons entitled to possession of holdings under this Act have entered into possession of the holdings respectively allotted to them, the scheme shall be deemed to have come into force.

26. Section 24 of the Act deals with grant of certificate of transfer, Section 28 deals with rights in holdings and Section 30 deals with apportionment of compensation, which read as follows:-

24. Certificate of transfer.—

(1) The Consolidation Officer shall grant to every owner to whom a holding has been allotted in pursuance of a scheme of consolidation and to every person to whom a right is allotted under sub-section (6) of section 21, a certificate in the prescribed form duly registered under the Indian Registration Act, 1908 (XVI of 1908), to the effect that the holding has been transferred to him in pursuance of the scheme.

The Consolidation Officer may, thereupon, cause to be prepared a new record of rights in respect of the holdings so transferred and the record of rights so prepared shall be deemed to have been prepared in the Hyderabad area of the State under the Hyderabad Record of Rights in Land Regulation, 1358 Fasli (Hyd. Act LVIII of 1358F), and elsewhere under the relevant Code.

(2) Notwithstanding anything contained in any law for the time being in force no stamp or registration fee shall be payable in respect of such certificate.

28. Rights in holdings.—

Every owner to whom a holding is allotted in pursuance of a scheme of consolidation shall, save as otherwise provided in section 29A, have the same rights in such holding as he had in his original holding: Provided that nothing in this section shall apply to any person to whom a holding has been allotted under the provisions of sub-section (6) of section 21.

30. Apportionment of compensation or net value in case of dispute.—

Where there is a dispute in respect of the apportionment of—

(a) the amount of compensation determined under sub-section (2) of section 16 or sub-section (4) of section 17;

(aa) the amount of compensation determined under section 18];

(b) the amount of additional compensation or reduction in compensation determined under sub-section (4), or the net value realised or payable under sub-section (6) or (7) of section 21;

(c) the total amount of compensation determined under sub-section (2) of section 29, the Consolidation Officer shall refer the dispute to the

decision of the District Court and deposit the amount of the compensation of net value as the case may be, in the Court and thereupon the provisions of sections 33, 53 and 54 of the Land Acquisition Act, 1894 (I of 1894), shall, so far as may, apply.”

27. Section 31 of the Act of 1947 deals with the restrictions on alienation and sub-division of consolidated holdings which reads as under:

“31. Restrictions on alienation and sub-division of consolidated holdings.—

(1) Notwithstanding anything contained in any law for the time being in force, no holding allotted under this Act, nor any part thereof shall save as otherwise provided in this section—

(a) be transferred, whether by way of sale (including sale in execution of a decree of a Civil Court or for recovery of arrears of land revenue or for sums recoverable as arrears of land revenue) or by way of gift, exchange, lease, or otherwise; or

(b) be sub-divided, whether under a decree or order of a Civil Court or any other competent authority, or otherwise, so as to create a fragment, without the previous sanction of the Collector. Such sanction shall be given by the Collector in such circumstances and subject to such conditions as may be prescribed.

(2) Nothing in sub-section (1) shall apply to any land—

(a) which is situated in any area for which—

(i) a municipal corporation is constituted under the 8Bombay Municipal Corporation Act (Bom. III of 1888), the 9Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949) or the 1City of Nagpur Corporation Act, 1948 (C. P. and Berar Act II of 1950); or

(ii) a municipal council is constituted under the 2Maharashtra Municipalities Act, 1965 (Mah. XL of 1965); or

(iii) a cantonment is constituted under the Cantonments Act, 1924 (II of 1924); or

(b) which is situated in a notified area for which a Special Planning Authority is constituted or appointed under section 40 of the Maharashtra Regional and Town Planning Act, 1966 (Mah. XXXVII of 1966); or

(c) which is situated in an area designated as a site for a new town for which a Development Authority is constituted under section 113 of the Maharashtra Regional and Town Planning Act, 1966 (Mah. XXXVII of 1966); or

(d) which is situated in any area specified by the State Government, by notification in the Official Gazette, as being reserved for non-agricultural or industrial development.

(3) Nothing in sub-section (1) shall also apply to any land which is to be

transferred—

(i) to the tenant of the holding or his heir; or

(ii) to the owner of the adjoining holding who cultivates his land personally; or

(iii) to an agriculturist or agricultural labourer, in its entirety; or

(iv) to a person who is rendered landless by reason of acquisition of his land for a public purpose; or

(v) to a co-operative society; or

(vi) by way of gift (whether by way of trust or otherwise) bona fide made by the owner in favour of a member of his family; or

(vii) by way of exchange, where such land is cultivated personally by the holder, for any other land allotted under this Act, which is also likewise cultivated personally by its holder:

Provided that, no such transfer shall be made so as to create a fragment.”

28. Section 31A of the Act of 1947 deals with Correction of clerical and arithmetical mistakes in scheme, which reads as under:

“31A. Correction of clerical and arithmetical mistakes in scheme.—

If, after a scheme has come into force, it appears to the Settlement Commissioner that the scheme is defective on account of any clerical or arithmetical mistake or error arising therein from any accidental slip or omission, and he is satisfied that the correction of such mistake or error would not vary the scheme in any material particular, he may by order in writing correct such mistake or error and publish his order in the prescribed manner.”

29. Chapter IV-A deals with the Powers And Procedure Of Consolidation Officer and Section 33C of the Act of 1947 deals with the powers to summon persons to give evidence and produce documents, which reads thus:

“33C. Power to summon persons to give evidence and produce documents.

(1) The Consolidation Officer shall have power to summon any person whose attendance he considers necessary, either to be examined as a party or to give evidence as a witness, or to produce documents for the purpose of any inquiry connected with the preparation of enforcement of any scheme under this Act.

(2) All persons so summoned shall be bound,—

(a) to attend, either in person or by and authorised agent, as the Consolidation Officer may direct in the summons;

(b) to state the truth upon any subject respecting which they are examined or make statements; and

(c) to produce such documents and other things as may be required by the Consolidation Officer in connection with the inquiry.”

30. Further, Section 33E provides penalty for not complying with summons, which reads as under:-

“33E. Penalty for not complying with summons.—

The Consolidation Officer shall have power to impose a fine not exceeding twenty-five rupees on any person who, without sufficient cause, fails to comply with the directions given in the summons issued by him:

Provided that, no fine shall be imposed under this section unless such person was summoned to attend or produce any documents within the limits of the village in which such person ordinarily resides or holds or cultivates land.

Such fine shall be recoverable as an arrear of land revenue.”

31. Section 37 of the Act of 1947 is an enabling provision which facilitates making rules for carrying out the purpose of the Act, which reads as under:

“37. Rules.—

(1) The State Government may by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generally of the foregoing power the State Government may make rules, providing for,—

(a) the manner of publication under sub-section (2) of section 4;

(b) the manner of giving public notice under sub-section (3) of section 5;

(c) village records in which fragments shall be entered under sub-section (1) of section 6;”

32. Pursuant to the powers conferred by Section 37, Rules have been framed as the Bombay Prevention of Fragmentation and Consolidation of Holdings Rules, 1959 (for short, “the Rules”).

33. It would be apposite to refer certain Rules to adjudicate the pending issue, which are as follows:-

“Rule 3. Publication of standard areas.

After a notification under sub-section (2) of section 4 or sub-section (3) of section 5 is published in the Official Gazette, the Collector shall cause the contents thereof to be published by affixing translations of the same in the regional language of the taluka or tahsil, as the case may be, for a period of three, months at the taluka or tahsil kacheri of the taluka or tahsil concerned and at the chavdi or other prominent place in each of the villages concerned in the regional language of such village.”

“Rule 4.Entry of fragments where Record of Rights does not exist.

In a village where there is not record of rights, all fragments in such village shall be entered as such as required by sub-section (1) of section 6 in the prescribed form.”

“6. Manner of choosing by lot' co-shares for allotment of share of land or money compensation under sub-section (2) of section 8AA.

(1) The Court, of the Collector, as the case may be, shall first fix the number of co-shares to whom a share of land may be provided and the number of co-sharers to whom money compensation may be given and shall call upon all the co-shares by a written notice to be present before the Court or the Collector, as the case may be, on a date specified in such notice.

(2) On the date specified in the notice referred to in sub-rule (1), or such future date to which the proceedings may be adjourned, the Court or the Collector, as the case may be, shall in the presence of the co-sharers or their representatives, who may be present on that day

(i) prepare as many identical slips of paper as there are co-sharers;

(ii) write the names of each co-sharer on a separate slip on one side and fold all such slips in identical manner so as to completely encloov the name written thereon;

(iii) place all the slips in empty box of suitable size and thoroughly mix them by shaking the box;

(iv) ask one of the co-sharers or any other person who may be present there to take out from the box with hand but without looking at the box, one by one, as man floded slips as the number of co-sharers fixed under sub-rule (1) for allotting share of land.

(3) The co-sharers whose names appear in the slips so taken out, shall be entitled to get share of land and the remaining co-sharers shall be entitled to get money compensations.

(4) *If on the date specified in the notice issued under sub-rule (1) all or more than half the number of co-sharers are absent, the Court or the Collector, as the case may be, may draw the lots as provided in sub-rule (2) in the presence of not less than three panchas to be selected by the Collector or the Court.”*

Rule 8. Publication of notification under section 15.

After a notification under section 15 is published in the Official Gazette, the Collector shall cause the contents thereof to be published by beat of draum in each of the villages concerned and by affixing translations of the same in the regional language of the taluka or tahsil at the taluka or tahsil kacheri of the taluka or tahsil concerned and at the chavdi, or other prominent place in each of the villages concerned in the regional language of such village.”

Rule - 9. Statements, records and maps to be included in scheme.

A scheme for the consolidation of holdings prepared under sub-section (1) of section '15A, shall contain the following statements records and maps, namely:

(i) A map of the village showing all the existing survey numbers and their subdivisions and recognised roads, cart-tracks, and footpaths and areas assigned for public purposes such as burial or cremation grounds, grazing areas, or threshing floor;

(ii) another village map which shall be a copy of the one mentioned in (i) but exhibiting in red lines or other markings how the original position of for existing survey numbers, their sub-divisions, recognised roads, cart-tracks, foot-paths and areas assigned for public purposes, will be altered after the consolidation scheme becomes operative;

(iii) a statement showing the names of the owners of holdings with particulars of Survey No. Hissa No., Class of land, tenure, area,, assessment and other rights or encumbrances, if any (after getting the Record of Rights up-to-date);

(iv) a statement showing the names of the owners to whom the new consolidated holdings are allotted with particulars of Survey No. Hissa No., class of land tenure, area, assessment and other rights or encumbrances, if any the Fact whether the new holdings is a fragment and the reasons for not consolidatin (v) a statement showing the compensation to be given or recovered consolidation from the owners concerned;

(vi) a brief statement as to the action, if any, taken, in pursuance of sections 17 and 18;

(vii) a statement showing the objections and suggestions in respect of the scheme made to the Consodilation Officer by the Village Committee, which were not accepted by him, together with the reasons for which they have been over ruled by him;

(viii) Such other particulars as may be, required by the settlement commissioner in this behalf.”

“Rule - 11. Manner of allotment of new plots to owners.

The Consolidation Officer shall allot new plots to each owner in the following manner, namely:

(a) The owners who mutually agree to exchange their lands with a view to consolidating their holdings may be allotted the lands agreed to be exchanged provided such agreement is given to the Consolidation Officer in writing and the Consolidation Officer, in consultation with the Village Committee is satisfied that no coercion of any kind has been brought on the owners concerned to secure such agreement;

(b) Every owner shall as far as may be feasible be allotted land in the blocks where (i) holds the largest and principal part of his holdings; or (ii) has his residential house; or

(ii) has his residential house; or

(iii) holds land in which he has made improvement of a permanent nature.

(c) in allotting new plot of land to any owner in lieu of a plot of land taken away from him, the Consolidation Officer shall, as far as may be feasible allot land of a -.similar kind as the one which is taken away from him.”

“Rule -19. Manner of depositing compensation under sub-section (3) of section 21.

The amount of compensation to be deposited by any owner under sub-section (3) of section 21 shall be deposited by him in the nearest Treasury or paid to the Village Accountant of the village concerned and a copy of the challan in token or credit in the Treasury or as the case may be the receipt granted by the Village Accountant, shall be produced by him before the Consolidation Officer.”

“Rule - 31. Constitution of Village Committee.

(1) The Consolidation Officer shall constitute a Village Committee for village or group of villages, as may be deemed necessary by him, consisting of two representatives of land owners cultivating and personally, one representative of tenants, if the extent of lands held by the tenants in the village does not exceed half the extent of the land held and cultivated personally by the land-owners in the village and two representatives of tenants if it so exceeds and a representative of each of the Village Panchayats concerned. He shall on a previously appointed day, notice of which shall be given by him to the villages concerned sufficiently in advance through the village officers hold a meeting of the adult villagers of the village or villages as the case may be for the purpose of electing by a simple, majority these representatives of land owners and tenants. The representative of the Village Panchayat shall be nominated by the Village Panchayat.

(2) The Consolidation Officer shall select one of the members of the Village Committee to be the Chairman of the Committee.

(3) The Village Committee shall meet as and when required by the Consolidation Officer and shall decide all questions by a majority of votes of the members present and voting. The Chairman shall have a casting vote in case of equality of votes. The quorum for a meeting shall be three.

(4) Where the adult villagers fail to select the representatives of land owners and tenants or where the Village Panchayat fails to nominate its representative, the Consolidation Officer shall, after recording the reasons in writing, nominate the representatives to the Village Committee.

(5) The Committee shall stand dissolved after the consolidation scheme in respect of the villages or village, as the case may be is enforced.”

“Rule - 33. Determination of area and assessment of reconstituted holdings.

(1) Where the reconstituted holding includes a portion of a survey number or a sub-division of survey number, the area of such portion shall be determined by actual measurement and the assessment shall be determined as mentioned below.

In the pre-Reorganization State of Bombay (excluding the transferred territories), the Saurashtra area and Kutch area of the State of Bombay, according to sub-section (2) of section 117 A of the Bombay Land Revenue Code, 1879 or as the case may be, of the Bombay Land Revenue Code, 1879 as applied to the Saurashtra area and the Kutch area; as if the portion of the survey number or of the sub-divisions of a survey number, as the case may be, was a sub-division of a survey number:

Provided that where the survey and the classification, records do not exist, or where the rule under the provisions of the relevant Code, the assessment shall be fixed in the same proportion as the area of the portion bears to the whole area of the survey number or the sub-division of a survey number as case may be.

(2) Where the reconstituted holding includes any road, street, lane or path or a portion thereof which has not been assessed for land revenue under the relevant Code, the area of such road, street, lane or path or a portion thereof shall be determined by actual measurement and the assessment shall be determined:

(a) in the case of the pre-Reorganization State of Bombay (excluding the transferred territories) by applying the appropriate standard rate of assessment to the relative classification value of the land determined in accordance with the provisions of rule 7 of the Bombay Land Revenue Rules, 1921, subject to the provisions of rule 19-M of the said rules; and

(b) in the case of the other areas of the State of Bombay, according to the rules or procedure in force in the area for the determination of assessment of unassessed lands disposed of for the purpose of agriculture under the relevant Code:

Provided that where no such rule or procedure has so far been framed, the assessment of such land shall be determined in accordance with clause (a).

(3) The area and assessment of a reconstituted holding shall be the aggregate of the following areas and assessments;

(a) the area and assessment of the survey number or the sub-division of a survey number, if any, wholly included in the reconstituted holding;

(b) the area and assessment of a portion of a survey number or of a subdivision of a survey number, if any, included in the reconstituted holding,

determined according to sub-rule (1) ', and

(c) the area and assessment of any road, street, lane or path or a portion thereof included in the reconstituted holding, determined according to sub-rule (2).

(4) Where a portion of the reconstituted holding is burdened with a lease, the area and assessment of such portion and the area and assessment of the remaining portion of the reconstituted holding shall be determined separately in the manner provided in provided in sub-rule (1).

(5) The area and assessment of the reconstituted holding determined under sub-rule (3) shall be separately entered under an indicative number in the land records.

(6) The area and assessment of the portions of the reconstituted holding determined under sub-rule (4) shall be separately entered in the land records under indicative numbers subordinate to that of the indicative number given under sub-rule (5) to the reconstituted holding of which they are portions.

Explanation. The term "assessment" in this rule includes the water rate or share, if any, included in the assessment."

"Rule - 34. Preparation and Correction of Record of Rights.

In accordance with a scheme of consolidation, a new Record of Rights shall be prepared and corrected by the Consolidation Officer in the manner laid down in sections 148 to 59 (both inclusive) of the Bombay Land Revenue Code, 1966."

34. Considering the scheme of the Act and the Rules framed thereunder, if the holding of the land holder has been reduced or the same has been acceded to the holding of another person, the Act provides for compensation to such land holder under Section 16 of the Act. As per Rule 34 of the Rule after implementation of consolidation scheme a new record of rights has to be prepared and corrected by the Consolidation Officer in the manner provided in Section 148 to 149 of the Maharashtra Land Revenue Code, 1966 (for short, "the Code"), for which it is necessary to refer certain provisions of the Code.

35. Section 2(13) of the Code deals with the holding meaning that the

portion of land held by the a holder. Whereas Section 2(18) deals with definition of Land Records. Section 2(39) defines survey officer and Section 8 prescribes survey officers, both of which read as follows:

2. Definitions:-

“(13) “holding” means a portion of land held by a holder

(18) “land records” means records maintained under the provisions of, or for the purposes of, this Code and includes a copy of maps and plans of a final planning scheme, improvement scheme or a scheme of consolidation of holdings which has come into force in any area under any law in force in the State and forwarded to any revenue or survey officer under such law or otherwise ;

(23). “occupant” means a holder in actual possession of unalienated land, other than a tenant or Government lessee; provided that, where a holder in actual possession is a tenant, the land holder or the superior landlord, as the case may be, shall be deemed to be the occupant;

(39). “ survey officer ” means an officer appointed under, or in the manner provided by, section 8 ;

Section 8.Survey Officers

For the purposes of Chapters V, VI, VIII, IX and X the State Government may appoint such officers as may from time to time appear necessary. Such officers may be designated “Settlement Commissioner”, “Director of Land Records”, “Deputy Director of Land Records”, “Superintendents of Land Records ”, “ Settlement Officers ”, “District Inspectors of Land Records” and “ Survey Tahsildars ”, or otherwise as may seem requisite.

36. As per Rule 34 of the Rules, Section 148 to 159 of the Code, are made applicable in respect of the Act also. Rule 34 of the Rules states that in accordance with the consolidation scheme, a new record of rights shall be prepared and corrected by the consolidation officer in the manner laid down in Section 148 to 159 of the Code.

37. The purpose of the consolidation is to consolidate the differentiated

smaller holding of the land holder into a consolidated holding for better cultivation thereof. The object of the Act is not to reduce or increase the holding of the land owner as it would infringe his right to property which is legal-constitutional rights. The purpose is to create and maintain a consolidated record of holding by assigning appropriate unified survey number.

38. Section 15A of the Act provides for preparation of scheme and principles to be followed in its preparation. It specifies that Consolidation Officer shall give due notice to the land owners concerned and village committee for preparation of the consolidation scheme. He shall visit each concerned village and shall in consultation with the village committee, proceed to prepare a consolidation scheme. While preparing so, he shall have due regard to the procedure prescribed by the State Government in regard to number of blocks in which the village land is to be grouped and the manner of allotting new plots to each owner. He shall have due regard to the recommendations of the village committee also.

39. Section 15A(1) clearly specifies that a notice for receipt of consent is necessary for preparation of consolidation scheme and failure to do so would amount to clear violation of Section 15A(1). Section 15A(2) provides for direction to the Consolidation Officer to follow procedure prescribed by the State Government for preparation of scheme and the same must be followed by the Consolidation Officer.

40. Section 20 of the Act deals with confirmation of the draft scheme or amended draft scheme, whereas Section 21 of the Act deals with enforcement of the scheme. Section 21 states that once the scheme is confirmed under Section 20, a notification of confirmation shall be published by the Settlement Commissioner in *official gazette*. Further, within a year of enforcement of consolidation scheme, compensation, if any, recoverable from the land owners must be deposited in the manner prescribed. Thereafter Consolidation Officer shall put the owners in possession of the holding to which they are entitled under the scheme in the prescribed manner or evict any person who is not entitled to occupy the land under the scheme. If two-third or more of the land owners who are affected by the scheme have entered into possession of the holding to which they are entitled under the scheme then the Consolidation Officer may put them in possession from such earlier date as may be decided by such owners. If an owner from whom compensation is recoverable, fails to deposit it, the same shall be recovered from him as an arrears of land revenue. It further provides that if the person is not inclined to pay the value of holding granted to him in excess, the State Government may recover from him the compensation due from him as an arrear of land revenue or the State Government may itself purchase the holding after paying net value of the said holding. Thus, under Section 21 Enforcement of Scheme can be held to be complied only when the scheme has been confirmed under Section 20. Unless the procedure contemplated under

Section 20 for confirmation of the scheme has been duly complied with, the enforcement cannot be deemed to have been completed. Thus, it can be said that if Section 20 is not complied, Section 21 is also not complied.

41. Section 22 of the Act deals with the coming into force of the scheme. It states that once the persons entitled to possession of holding under the scheme have entered into possession of their respective holding, the scheme shall be deemed to have been implemented.

42. Section 24 of the Act deals with certificate of transfer, which states that Consolidation Officer shall grant a certificate of transfer to every owner to whom a holding has been allotted or to whom holding has been transferred in pursuance of consolidation scheme. It further provides that Consolidation Officer may prepare a new record of rights in pursuance of the same.

43. So far as the issue of delay is concerned, the scheme of the Act is silent on it. It can be said that the Act does not provide limitation for objecting to the scheme or raising a dispute against reduction of holding of a land owner. Being a legal-constitutional right of land owner, his remedy to correct the record cannot be taken away on technical ground of delay. As the records transpire that notice under Section 15A(1) of the Act were not issued to the land owners, it can be said that the land owners were not aware of reduction in their respective holding. Therefore, once the reduction was noticed and complained of by the land owners, it is incumbent upon the authorities to correct the same without

going into the issue of delay, as the fault is on the authorities due to failure to issue notice. The record was prepared behind their back.

44. This Court in the case of ***Sanjay Raju Pote and Ors. v. Sahebrao Balwant Pote & Anr. (WP/12529/2019 decided on 26.03.2026)*** has held in paragraph nos.7 and 8 as under:-

*“7. Having heard the learned counsel for the petitioners and upon perusal of the record, it appears that respondent No.2 has exercised the discretion in condoning the delay. In this context, this Court in the case of ***Tulsiram and others v. The State of Maharashtra and Ors., 2023 SCC Online Bom 2204*** has observed that if the land area is reduced while preparing the record, it is for the concerned authorities to justify such action. This Court has considered the issue in paragraphs 3, 14 to 18, 22, 28 to 31, and 36 to 42 as follows:-*

3] After 40 years of scheme being confirmed, the respondent nos. 5 and 6 filed an application with the Deputy Superintendent of Land Record on 24.02.1998 for making the correction in area recorded in 7/12 extract of Gat No.192 to 195. It is the contention of the respondents that less area was sold to the petitioners, however, more area has been shown in the name of the petitioners in the consolidation scheme.

14] It is well settled that the scheme enforced under the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act cannot be varied after long period i.e. ordinarily beyond 3 years of scheme coming into force under Section 22 of the Act. However, in order to ascertain the date from which the period of limitation would commence to challenge the scheme, it is necessary to ascertain the date on which the consolidation scheme comes into force under Section 22 of the Act and for that purpose the consolidation scheme of the Act needs to be examined.

SCHEME OF THE CONSOLIDATION OF FRAGMENTATION AND CONSOLIDATION OF HOLDINGS ACT :

15] The Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act is enacted for preventing fragmentation of agricultural holdings and to provide for the consolidation of agricultural holdings for the purpose of the better cultivation of agricultural lands. In terms of Section 3 of the Act, the State Government may, after such inquiry as it deems fit, by notification in the Official Gazette, specify a village, mahal or taluka or any part thereof as a local area for the purposes of the Act. In terms of Section 5 (3) of the Act, the State Government shall, by notification in the Official Gazette, and in such other manner as may be prescribed, give public notice of any standard area determined under sub-section (1) or revised under sub-section (2). In terms of Section 6 (1) of the Act, on notification of a standard area under sub-section (3) of section 5 for a local area all fragments in the local area shall be entered as such in the Record of Rights or where there is no Record of Rights in such village record as the State Government may prescribe.

16] In terms of Section 8 of the Act, no land in any local area shall be transferred or partitioned so as to create a fragment. Section 8AA provides for restriction on partition of land. Section 9 provides for penalty for transfer or partition contrary to provisions of Act. Section 14 prohibits sale of fragment at

Court sale or to create a fragment by such sale.

17] Chapter III deals with procedure for consolidation. With the object of consolidating holdings in any village, mahal, taluka or tehsil or any part thereof for the purpose of better cultivation of lands therein, the State Government may declare by a notification in the official gazette and by publication in the prescribed manner in the village or villages concerned its intention to make a scheme for the consolidation of holdings in such village or villages or part thereof as may be specified. On such publication in the village concerned, the State Government may appoint a Consolidation Officer who shall proceed to prepare a scheme for the consolidation of holdings in such village or villages or part thereof.

18] Section 16 provides for compensation. The scheme prepared by the Consolidation Officer shall provide for the payment of compensation to any owner who is allotted a holding of less market value than that of his original holding and for the recovery of compensation from any owner who is allotted a holding of greater market value than that of his original holding.

22] Section 22 of the Act provides for coming into force of scheme. As soon as the persons entitled to possession of holdings under the Act have entered into possession of the holdings respectively allotted to them, the scheme shall be deemed to have come into force.

28] The Division Bench of this Court in the case of Dattu Appa Patil and others Vs. State of Maharashtra & others reported in 2007 (1) Mh.L.J. 393 while applying the law laid down in the case of Gulabrao [supra] at para no.18 has held as under :

18. We feel that these observations are clearly attracted to the present case. We have already noted that the Consolidation Scheme came to be applied to the Village Asurle in the year 1962. The lands were exchanged by consent of the parties in the year 1962 after recording statements of the parties. Possession receipts were executed. Accordingly, changes were introduced in the village revenue records and parties continued to cultivate their respective allotted lands. This arrangement was accepted by the parties without any demur. The father of respondent 3 was alive till 1988. He made no complaints about any fraud having been committed. It is only in the year 1989 that respondent 3 for the first time made an application for variation. The application for variation is made nearly after about 27 years. Therefore, the Settlement Commissioner erred in exercising his power under section 32(1) of effecting variation in the Scheme. Period of 27 years can certainly not be called reasonable period. Besides, serious allegations of fraud could not have been decided by him in such a manner.

29] The above two judgments i.e. Gulabrao & Dattu Appa Patil [supra] indicate that the power of Settlement Officer to vary the scheme in exercise of its power under Section 32 of the Act are available to him ordinarily until 3 years from the date when the scheme under Section 22 of the Act has come into force. The consolidation passes through the stage of publication of the draft scheme, confirmation of the final scheme and publication of the same in the official gazette and thereafter the scheme is implemented / enforced and on completion of enforcement in view of

Section 22 of the Act, the scheme is deemed to have come into force.

30] *In the instant case, the scheme is confirmed under Section 21 (1) of the 1950 Act on 23.03.1977. However, there is no date known when the scheme came into force under Section 22 of the Act qua the present petitioners. The scheme comes into force individually and the entire scheme does not come into force at once, it comes into force partially when in compliance of Section 21 a person entitled to the holding is put in possession of the holding i.e. the date when the possession of the holding is handed over to each of the entitled person. The power under Section 32 of the Act to vary the scheme has been consistently held by this Court has to be exercised ordinarily within 3 years from the date of scheme coming into force and thus limitation does not commence from the date of confirmation of the scheme, which is published in the official gazette. The date on which the consolidation scheme comes into force would depend on the possession of each individual holding being handed over to the entitled person after following due process. If the Settlement Commissioner is of the view that further process as contemplated under Section 21 in respect of deposit of compensation and grant of compensation, eviction of the occupant and transfer of possession has not taken place and only confirmation of the entire scheme has taken place under Section 21 (1), the Settlement Commissioner is entitled to exercise jurisdiction under Section 31A and 32 of the Act.*

31] *The scheme cannot be varied after three years from the date of the scheme having come into force. However, while applying settled law, the learned counsel of petitioners has submitted that the date of publication of confirmation of the scheme under Section 21 (1) is the date from which the limitation is to be considered. The submission of the learned counsel for the petitioners that the scheme being published in the official gazette, three years has to be counted from the date of publication of the confirmation of the scheme is erroneous in law. The date on which the scheme comes into force under Section 22, is the relevant date and that there is no publication of the date on which the scheme comes into force as it comes into force partially in each individual case when the land holding is put in possession in favour of the person entitled to such possession. Correspondingly the entitled person has to deposit compensation for the excess land received by him and the same is payable to the person who loses the land. In the event the compensation is not deposited by the entitled person, the same can be recovered as land revenue. Any person losing land i.e. gets a land of lesser value has to be compensated for loss of land and any person entitled to receive the land of higher value has to deposit the compensation.*

8. *In the present case, the material on record does not indicate that respondent No.1 had knowledge of the change in the record at the relevant time. If the record was altered without the knowledge of respondent No.1, the delay in approaching the authority cannot be said to be intentional or deliberate. More particularly, respondents are in possession of property and have requested the correction in the record only.*

Therefore, in such circumstances, I am of the opinion that the delay has been rightly condoned and the matter deserves to be considered on its own merits by the competent authority and I do not find that respondent No.2 has committed any error while passing the impugned order."

45. The case of ***Tulsiram and others v. State of Maharashtra and others***,

2023 SCC OnLine Bom 2204, which has been confirmed by the Hon'ble Apex Court as S. L. P. filed against the order of this Court was dismissed by the Hon'ble Supreme Court of India.

46. Section 31A of the Act deals with correction of clerical and arithmetical mistakes in scheme, whereas Section 32 provides for power to vary the scheme on the ground of error, irregularities or informality.

47. In all cases where holding of an agriculturist is reduced or holding of one agriculturist is shown to be under the occupation of another agriculturist, it is to be verified that whether the procedure contemplated under Section 15 has been followed. The object of the Act is not to reduce the holding but to consolidate the same and the while doing so authorities have to be vigilant that in no case the agriculturist loses his land.

48. If in any case the holding of an agriculturist is reduced, the compensation must be followed and authority has to verify whether compensation has been paid or not also needs to consider whether there has been valid exchange of the land in terms of the scheme. When reduction in the holding is brought to the notice of authorities by an agriculturist, the authorities must justify the grounds of such reduction with cogent reasons. Merely because it has not been brought to the notice of concerned authorities, such record containing reduced area cannot be upheld. Once it is brought to the notice of authorities that area has been

reduced, the authorities must verify whether the notice of implementation of consolidation scheme has been issued and whether the area of concerned agriculturist is actually reduced compared to his holding under the earlier consolidation scheme. Therefore, in all matters concerning change in the holding of an agriculturist the authorities are supposed to correct the same.

49. There is no dispute with respect to the fact that the agriculturists are aggrieved by the record created after enforcement of scheme. The consent as required under Section 15A of the Act was never obtained and no compensation was paid to the agriculturists whose holding has been reduced. It is not even the case that the agriculturists whose holding was increased were paid compensation. The procedure prescribed for recovery of compensation was not initiated. Section 16 provides for compensation. The agriculturist who is allotted holding of less market value than that of his original holding has to be paid compensation. Whereas, the land owner who is allotted holding of greater market value than that of his original holding has to pay compensation.

50. Considering the record before me, I am of the considered opinion that the procedure prescribed and discussed above is nowhere followed. Under no circumstances can an land holder be deprived of his land due to inadvertence and haphazard implementation of scheme by the authorities.

51. In the present case, the learned Minister has set aside the orders passed by the revenue authorities by observing that the sale deed executed in favour of the petitioner was set aside in Regular Civil Suit No.47/2002. However, the record indicates that no such finding was recorded setting aside the petitioner's sale deed. On the contrary, the petitioner's title has already been declared by the competent Civil Court. Therefore, the findings recorded by the learned Minister are perverse and unsustainable. Considering the aforesaid discussion and adopting the same view as taken in the above cited judgments, I deem it appropriate to allow the present petitions thereby setting aside the impugned orders. Hence, I proceed to pass following order:-

ORDER

- i) The writ petition is allowed.
- ii) The impugned order dated 06.06.2017 passed by the learned Minister is hereby quashed and set aside.
- iii) Rule is made absolute in the above terms.
- iv) Pending Civil Applications, if any, stand disposed of.

[SIDDHESHWAR S. THOMBRE]
JUDGE

