IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12501 OF 2017

...

Nagnath s/o Narsing Patil }
Age: 72 years, Occu:Agri }
R/o: Bhadi, Ta. & Dist. Latur } ..**Petitioner**

Versus

1) The State of Maharashtra, }
Through its Principal Secretary, }
Revenue and Forest Department, }
Mantralaya, Mumbai-32 }

2. The Hon'ble State Minister for Revenue }
Maharashtra State, Mantralaya, Mumbai-32 }

3. Deputy Director of Land Record, }
Aurangabad Region, Aurangabad }

4. Superintendent of Land Record, }
Latur, Tq. & Dist. Latur }

5. Deputy Superintendent of Land Record, }
Latur, Ta. & Dist. Latur }

6. Bhujang s/o Hanmantrao Patil, }
Age: 72 years, Occu: Agri., }
R/o: Bhadi, Ta. & Dist. Latur. }**Respondents**

WITH
CIVIL APPLICATION NO. 8479 OF 2024
IN
WRIT PETITION NO.12501 OF 2017

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...

Mr. A. N. Nagargoje, Advocate for the petitioner.
Ms. Pradhnya Talekar, Advocate for the Respondent No.6.
Mr. D. R. Korde, AGP for the Respondent Nos.1 to 5.

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CORAM : SIDDHESHWAR S. THOMBRE, J.
Reserved on : 20.01.2026
Pronounced on : 02.02.2026

JUDGEMENT :

1. Rule. Rule made returnable forthwith. Heard finally at the stage of admission by consent of the parties.

2. Heard learned counsel for the respective parties.

3. The present petition arises out of the order dated 19.10.2015 passed by respondent No.3, namely, the Deputy Director of Land Records, Aurangabad Region, Aurangabad, which came to be confirmed by order dated 05.07.2017 passed by learned Minister-respondent No.2.

4. The facts, in nutshell, are that respondent No.6 filed an application on 03.11.2013 before the respondent–District Superintendent of Land Records, Latur, stating therein that area in the 7/12 extract shown in his favour was less. Pursuant to the said application filed by respondent No.6 and after hearing all the parties, respondent No.5 prepared a draft scheme under Section 32 and forwarded the same to respondent No.4, showing that the land admeasuring 4 H was in possession of the petitioner, whereas 3.96 H was in possession of respondent No.6. Respondent No.4 forwarded the draft scheme to respondent No.3, Deputy Director of Land Records, Aurangabad, for approval.

5. The petitioner raised objections by filing an application on 20.12.2014. However, the draft scheme proposed under Section 32(3) came to be approved by observing that, after the draft scheme, it was found that the petitioner was allotted land in excess and no reasoning was given for deduction of the land of respondent No.6. The petitioner thereafter filed an appeal before the Hon'ble State Minister. The appeal filed by the petitioner came to be rejected by observing that the petitioner was granted land in excess after the consolidation scheme, whereas the land of respondent No.6 was reduced. Therefore, the appeal came to be dismissed. Hence, the present writ petition.

6. The learned counsel for the petitioner Mr. A. N. Nagargoje submits that the dispute relates to Survey No.76/1, new Gat No.194, admeasuring 3 H 78 R, and old Survey No.76/2, new Gat No.195, admeasuring 3 H 22 R, old Survey No.76/3, new Gat No.193. The old Survey No.76/3, new Gat No.195 admeasuring 7 R is common between the parties, there is no dispute in respect of the same.

7. The learned counsel for the petitioner submits that initially the names of Narsing, father of the petitioner, and Hanumant, father of respondent No.6, were recorded. Mutation Entry No.128 shows that the area of old Survey No.76/1 was mentioned as 4 H 78 R in the name of Narsing, whereas the area of old Survey No.76/2 was mentioned as 4 H 22 R in the name of Hanumant, and the said record was continued up to the year 1970–71.

8. However, by subsequent Mutation Entry No.157, it is shown that the earlier holdings were changed and, by the said entry, the area of old Survey No.76/1 was mentioned as 4 H 78 R in the name of Narsing, father of the petitioner, whereas the area of old Survey No.76/2 was mentioned as 3 H 22 R in the name of Hanumant, father of respondent No.6. Therefore, it is contended that from the year 1972 onwards, the holding area has been changed by Mutation Entry No.157. Neither respondent No.6 nor his father challenged the said mutation entry by contending that there was no change in the holding of the land.

9. He further points out that, before framing of the scheme, the concerned Officer verified the record relating to the holdings of the respective persons and, after framing of the scheme, prepared a chart which clearly indicates the position before and after framing of the scheme. The said chart shows that the area of Survey No.76/1 was 4 H 78 R and the area of Survey No.76/2 was 3 H 22 R. As per the record of Hakk Patrak (Gaon No.6) and Hissa Form No.4, prepared before framing of the scheme, the same area is reflected.

10. Therefore, he submits that before framing of the scheme, the area of old Survey No.76/1 was 4 H 78 R, and in the consolidation scheme it has been converted into Gat No.194 with the same area recorded. Similarly, before framing of the scheme, the area of old Survey No.76/2 was 3 H 22 R, and in the consolidation scheme the said survey has been converted into the Gat No.195 showing the same area, i.e. 3 H 22 R.

Thus, the learned counsel for the petitioner submits that there is no change in the holding after framing of the scheme.

11. He further submits that, in view of the law laid down by this Court in ***Mohd. Hanif v. Junaid Mohd., 2005 (1) MLJ 233***, under Section 32 of the Act, the Settlement Commissioner is the competent authority to deal with objections in respect of the scheme and for changing the scheme. He points out that, in the present matter, the action has been taken by an officer other than the Settlement Commissioner. He further submits that the ratio laid down by the Full Bench of this Court in ***Sombharti Guru Damu Bharti v. State of Maharashtra & Ors. (2000) 03 BOM CK 0076*** lays down that constitutional powers cannot be delegated. He further submits that the Cabinet Minister alone was competent to decide the proceedings; however, in the present matter, the proceedings have been decided by the learned State Minister.

12. He advanced his arguments on the point of limitation by submitting that the Hon'ble Supreme Court as well as this Court, in a catena of judgments, have held that a consolidation scheme cannot be varied or changed after a period of three years from its formation. He submits that the application in the present case was filed after the expiry of three years and, therefore, the authority was not supposed to entertain the same. The application was filed in the year 2010, i.e. after a period of 36 years, and the same was entertained. Therefore, he submits that the authorities ought not have entertained the said application on the ground

of delay.

13. In support of his arguments, he placed reliance on the following judgments:

i) Gulabrao Bhaurao Kakade v. Nivrutti Krishna Bhilare, 2001 (4) Mh.L.J. 31

ii) Dattu Appa Patil v. The State of Maharashtra, 2007 (1) Mh. L. J.393

iii) Ganpat Dattu Mali v. The State of Maharashtra, 2012 (1) Mh. L.J. 341

iv) Mohammad Hanif v. Junaid Mohammad, 2005 (1) Mh.L. J. 233

v) Santoshkumar Shivgonda Patil v. Balasaheb Tukaram Shevale, 2010 (2) Mh.L.J. 150

vi) Tulsiram and others v. The State of Maharashtra and Ors., 2023, SCC Online Bom 2204

14. *Per contra*, Ms. Pradnya Talekar, learned counsel appearing for respondent No.6, submits that the order passed by respondent No.2 is legal and proper and, therefore, the writ petition is liable to be dismissed.

15. She submits that the petitioner's father Narsing Patil and the father of respondent No.6 Hanumant Patil were real brothers. Prior to the consolidation scheme, Survey No.76/1 was owned by the petitioner and admeasured 4 H 3 R. After the consolidation scheme, Survey No.76/1

was converted into Gat No.194 and its area was shown as 4 H 78 R. Survey No.76/2 was converted into Gat No.195 and its area was shown as 3 H 22 R. Gat No.193 was created in there was a Well and the same was shown as common property, admeasuring 7 R.

16. She further submits that though, under the scheme, the land in possession of respondent No.6 was reduced, the same was never given effect and such reduction remained only on paper. The petitioner and respondent No.6 continued to remain in possession of their respective lands as per the situation prevailing prior to the scheme. She submits that respondent No.6 never received any compensation for the reduction of land and, when it was noticed that 7/12 area less holding was shown in his favour, respondent No.6 filed an application before the Superintendent of Land Records.

17. Pursuant to the said application and after hearing all the parties, respondent No.5–Deputy Superintendent of Land Records, Latur, prepared a draft scheme and forwarded it to respondent No.4, showing that land admeasuring 4 H 4 R was in possession of the petitioner, whereas 3 H 96 R was in possession of respondent No.6. Respondent No.4 forwarded the draft scheme to respondent No.3 – Deputy Director of Land Records, Aurangabad, for approval, wherein respondent No.3 issued notice to the petitioner.

18. The petitioner raised objections to the draft scheme. Respondent No.3 rejected the objections by observing that, after the consolidation

scheme, it was found that the petitioner was allotted land in excess and there was no reasoning for reduction of the land of respondent No.6. Being aggrieved by the same, the petitioner filed an appeal before the learned Minister, which also came to be dismissed.

19. She submits that since the petitioner was shown to be in possession of excess land and the land of respondent No.6 was reduced, the authority has rightly approved the scheme for correction of holdings. She submits that there is no challenge to the consolidation scheme as such; however, individually, the land of respondent No.6 was reduced and the same was shown in the name of the petitioner. Therefore, she submits that the order passed by the authorities does not call for interference by this Court and prays for dismissal of the petition.

20. In support of her submissions, she relied upon the judgments of this Court in ***Tulsiram and others v. State of Maharashtra and others***, *2023 SCC OnLine Bom 2204*, and ***Krishanabai Bhausaheb Gore and others v. State of Maharashtra and others***, *2025 SCC OnLine Bom 3222*. She further points out that judgment in the case of ***Tulsiram (supra)*** has been confirmed by the Apex Court as S. L. P. Filed against the order of this Court was dismissed by the Hon'ble Supreme Court of India.

21. Having heard the learned counsel for the respective parties, it would be useful to refer to certain facts of the case. On perusal of the record, it reveals that the old consolidation scheme was in force from

1961 to 1972. The area of Survey No.76/1 admeasuring 9 Acre 36 Guntas (4 H 4 R) and the area of Survey No.76/2 admeasuring 9 Acre 36 Guntas (4H 3 R) were shown as such up to the year 1972.

22. It further reveals that when the consolidation proceedings commenced, the concerned Officer initiated the process and, as per the record prepared by the Assistant Consolidation Officer–II, Osmanabad, while carrying out pot Hissa measurement, Entry No.157 was taken. I have perused the said entry, which is placed at pages 30 and 32 of the record.

The said entry reveals that the holding of the petitioner was increased and the holding of respondent No.6 was reduced. No specific reason was recorded by the Assistant Consolidation Officer–II, Osmanabad in Gat No.76 Mouje Bhadi in Hakache Patrak (Ga. na. No.6) as well as Hissa Form No.4 as to how and on what basis holdings were changed.

23. Therefore, the contention of the learned counsel for the petitioner that after 1972–73 the area of Survey No.76/1 was recorded as 4 H 78 R and the area of Survey No.76/2 was recorded as 3 H 22 R, cannot be accepted. On perusal of Entry No.157, it is evident that the same was effected pursuant to the report placed at pages 30 and 32, submitted by the Assistant Consolidation Officer-II, Osmanabad. Pursuant thereto, the above holdings were recorded.

24. Thus, the holdings were changed after the consolidation proceedings and, therefore, the contention of the petitioner that there was no change in holding either prior to or after the consolidation scheme cannot be accepted. Even the 7/12 extract placed on record by the petitioner at page 28 specifically refers to Entry No.157, which corresponds with the entry placed at page 30. Therefore, during consolidation proceedings, the holdings were changed.

25. In view of the above, the law laid down by this Court in ***Tulsiram (supra)*** decided by a Coordinate Bench, is squarely applicable to the present case. In *Tulsiram*, 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.*
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> *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.*
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> *SCHEME OF THE CONSOLIDATION OF FRAGMENTATION AND CONSOLIDATION OF HOLDINGS ACT :*
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> *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 looses the land. In the event the compensation is not deposited by the entitled person, the same can be recovered as land revenue. Any person loosing 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.

26. As well as the Coordinate Bench of this Court, in the matter of ***Krishanabai (supra)***, has considered the issue in paragraph Nos. 7, 10, 12, 24 and 35.

7. By the impugned order the Consolidation Scheme has been substantially altered. Such a power neither vests in the Respondent No. 3 nor the Respondent No. 3 could have resorted to exercise the said power after a lapse of more than 30 years of the coming into force of the Consolidation Scheme. Mr. Bandose, would thus urge that the impugned order suffers from the vice of the flagrant transgression of the limits of the jurisdiction.

10. To buttress the submission that a Consolidation Scheme cannot be corrected after a lapse of more than 30 years, Mr Bansode placed reliance on a judgment of the Division Bench in the case of Dattu Appa Patil Since Deceased by LRs Ananda

Dattu Patil and Ors Vs State of Maharashtra and Ors,1 and the judgments of learned Single Judges of this Court, in the cases of Ganpati Dadu Mali since deceased through LRs Rakhmabai Ganpati Mali and Ors Vs State of Maharashtra and Ors and Bapu Gunda Mirje & Ors Vs State of Maharashtra & Ors.

12. Mr. Kshirsagar further submitted that there is no material to indicate that the original Scheme, under which a larger area was allotted to Tukaram Ganpati Gore, the predecessor-in-title of the Petitioners, was enforced in the manner ordained by Section 21 of the Act of 1947. Neither a certificate of transfer of the additional land was issued nor any compensation was paid to the persons whose lands came to be transferred to Tukaram Ganpati Gore nor those persons were evicted from the area of land which was allegedly allotted to Tukaram Ganpati Gore. In the absence of the documents to evidence the enforcement of the Scheme qua the area which was allegedly allotted to Tukaram Ganpati Gore, mere entry of an incorrect area in the Record of Rights pursuant to the Consolidation Scheme is of no avail. In a situation of this nature, the recourse to the provisions contained in Section 31A of the Act 1947 is perfectly in order, submitted Mr. Kshirsagar. To bolster up this submission, Mr. Kshirsagar placed reliance on a judgment of a learned Single Judge of this Court in the case of Tulsiram S/o Shivram Dhondkar & Ors Vs The State of Maharashtra & Ors.

34. The reliance placed by Mr Kshirsagar on the judgment of this Court in the case of Tulsiram Shivram Dhondkar (Supra) appears to be well-founded. The observations in paragraph 36 to 42 are material and hence extracted below.

> *"36. Thus the authority on examination of relevant record has rendered a finding that the land purchased by the petitioners is far less than what they are shown to be entitled to under the consolidation scheme. The excess lands are not put in possession of the petitioners in compliance of the procedure under Section 21 of the Act. It is also relevant to note that to put the petitioners in possession of the additional as shown in the confirmed scheme, the respondents owners of land, who were in possession ought to have been evicted from the land before handing over the possession of the excess land. In absence of physical eviction of the respondents owners of the land, it cannot be said that the petitioners are put in possession of the excess land. There is no evidence of eviction of respondents – owners from the excess land. Mere mutation entry on the basis of confirmed scheme does not confer right to the petitioners on the excess land which is not put in possession in enforcement of the scheme under Section 21 of the Act.*
>
> *37. It is to be noticed that under Section 16 of the Act whenever a person is granted land / holding of the larger value under the* In the absence of any justification on record as to how and on what basis the area purchased by the petitioner under the registered Sale Deed came to be reduced, a serious discrepancy arises. Once such reduction was noticed by the petitioner, the authorities were required to exercise powers under Section 31-A of the The Maharashtra Prevention Of Fragmentation And Consolidation Of Holdings Act, 1947 and examine the correctness of the record. *consolidation scheme then the person who looses the land has to be compensated by computing compensation by applying the principles of the Land Acquisition Act. After the scheme is finalized and confirmed under Section 21 (1), the scheme has to be*

enforced. The person, who gets the excess land, is required to deposit the amount as determined under Section 16 of the Act. The amount deposited has to be paid to the person who looses the land. Although the person entitled to larger holding can be put in possession prior to the deposit of compensation, it is held by the impugned order that there is no evidence that the petitioners are put in possession of the larger holding.

38. The authority has in the impugned order held that the petitioners are not put in possession of the additional land as shown in the confirmed scheme under Section 21 of the Act and thus the petitioners are merely holding the excess land on paper. For the excess land, compensation is not determined and deposited and paid and thus the record indicates that the process as contemplated under the Act qua the determination and payment of compensation for the excess land has not been initiated and completed. Thus, the Authority constituted under the Act has arrived at a finding that there is clerical error of showing excess land in the name of purchasers and has invoked it's powers under Section 31A of the Act and has directed for rectification / correction in the entries.

39. In the instant case, the changes are made, on account of clerical mistakes in noting the area, as such there is no corresponding change in the consolidation scheme and there is no change in the gat numbers. It is only the areas mentioned qua respective owners i.e. found to be defective and sought to be rectified. Section 32 of the Act would come into play when at the time of making correction, the gats are to be re- organized and there is variation in the scheme. In the instant case, the authority has rightly come to the conclusion that powers under Section 31A of the Act needs to be exercised to correct the clerical errors as there is no variation in the scheme but mere recording of correct ownership of the respective owners, in the existing gat numbers.

40. In the instant case, the consolidation scheme is not enforced under Section 21 of the Act with respect to the petitioners qua the excess lands mentioned in the scheme. The respondents are not evicted from the excess land after payment of compensation as such there is no delay in filing the application for correction of scheme. It cannot be presumed that the respondents lost their land without payment of compensation, so also the lands are not exchanged. Non payment of compensation to the respondents would violate the constitutional right to property of the respondents under Article 300A of the Constitution of India. There is no assertion made by the petitioners that the petitioners have deposited compensation for the excess land granted to them under the scheme. The excess land in favour of the petitioners is merely shown in the confirmed scheme.

41. In the cases of Gulabrao Bhaurao Kakade and also in the case of Dattu Appa Patil [supra], the parties were put in possession of their respective holding under Section 21 and the scheme had come into force under Section 22 of the Act and the same was sought to be reopened after a huge delay and thus in the fact situation this Court had not permitted exercise of powers under Section 32 of the Act after a long period of delay of more than 3 years after the consolidation scheme had come into force under Section 22 of the Act.

42. The Authorities have exercised the powers correctly since much larger lands are shown in the record of the purchaser under the consolidation scheme then what was purchased by them before

> *implementation of the consolidation scheme and that the process as contemplated under Section 21 of the Act is not undertaken. Compensation is also not computed in terms of Section 16 of the Act and thus no compensation is deposited in terms of Section 21 of the Act and there is no handing over of the possession of the excess land to the petitioners under Section 21 of the Act."*

> *35. The aforesaid enunciation of law appears to be of all four with the facts of the case at hand. Viewed through the aforesaid prism, this Court is of the considered view that, in the instant case the exercise of the power by the Superintendent, Land Records, was indeed for correction of the defect in the Scheme which arose on account of the clerical error in mentioning the area of the respective lands. The Superintendent of Land Records was, therefore, justified in correcting the clerical error. The exercise of power is supported by objective material which justified such corrections. As the original Scheme was not enforced in the manner envisaged by the Act of 1947 and the area mentioned in the Gunakar Book and under the Consolidation Scheme remained a paper entry, the correction thereof cannot be faulted at on the premise that it was done after a number of years*

27. Therefore, considering the fact that respondent No.4 forwarded the draft scheme and the same was approved by respondent No.3 by exercising powers under Section 32(1) and (3) of Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947 by holding that, after the consolidation scheme, it was found that the petitioner was allotted land in excess. As held by the Coordinate Benches of this Court in the above-referred judgments, the authorities have exercised their powers correctly.

28. In the absence of any justification on record as to how and on what basis the area purchased by the petitioner under the registered Sale Deed came to be reduced, a serious discrepancy arises. Once such reduction was noticed by the petitioner, the authorities were required to exercise powers under Section 31-A of the The Maharashtra Prevention Of Fragmentation And Consolidation Of Holdings Act, 1947 and examine the correctness of the record.

29. From above discussion, it is evident that the area of respondent No.6 was reduced and the same was shown in the record in the name of the petitioner and the same has been confirmed by the learned Minister. Therefore, I do not find any reason to interfere with the order dated 19.10.2015 passed by Deputy Director of Land Records, Aurangabad and order dated 05.07.2017 passed by learned Minister. Hence, I proceed to pass following order:-

ORDER

i) The writ petition is dismissed.

ii) Rule is discharged.

30. In view of dismissal of writ petition, Civil Application/s, if any, is/are disposed of.

[SIDDHESHWAR S. THOMBRE]
JUDGE

31. After pronouncement of the judgment, the learned counsel for the petitioner sought continuation of the interim relief. The learned counsel for the respondents strongly opposed the said request.

32. However, in view of the fact that the interim relief has been in operation since 12.10.2017, the same is continued for a further period of four weeks from today.

[SIDDHESHWAR S. THOMBRE]
JUDGE