

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

**CIVIL WRIT PETITION NO. 408 OF 2025**

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The Commissioner,  
Kolhapur Municipal Corporation,  
Kolhapur,  
having office at Kolhapur Municipal  
Corporation, Main Building, Shivaji  
Chowk, C-Ward, Kolhapur-416 002. ... **Petitioner**

**Versus**

1. The State of Maharashtra,  
Through Revenue and Forest (Department)  
Mantralaya, Mumbai
2. Brigadier Vasantrao Baburao Patil,  
Age Major, Occ. Retired,  
R/o. 'Sai Pooja' Plot No. 21, Chandan  
Garden, N.I.B.M. Road, Kondva, Pune.
3. Shri. Dilip Ashok Desai,  
Age Major, Occ. Business,  
R/o. Survey No. 176, Eden Garden  
Apartment, B wing, Flat No. 602  
E Ward, Near Khanwilkar Petrol  
Pump, Kolhapur, Garden, N.I.B.M.  
Road, Kondva, Pune.
4. The Divisional Commissioner,  
Pune Division, Pune. ... **Respondents**

...

Mr. Abhijit M. Adagule for the Petitioner  
Mr. K. K. Saswade a/w Adv. R.K. Saswade, Adv. A.R. Laykar for  
Respondent No. 2.  
Mr. Suryajeet P. Chavan a/w Adv. Atul M. Khilari for  
Respondent No. 3.  
Mr. Sanjay D. Rayrikar, A.G.P. for Respondent nos. 1 & 4 - State

**WITH  
CIVIL WRIT PETITION NO. 722 OF 2025**

Mr. Dilip Ashok Desai,  
Age 57 years, Occ. Business/Agriculture,  
Residing at Flat No.602, B Wing,  
Eden Garden Apartment, Nagala Park,  
Taluka Karveer, Dist.Kolhapur ... **Petitioner**

**Versus**

1. The State of Maharashtra,  
Through Revenue and Forest Department,  
Mantralaya Mumbai-400021.
2. The Divisional Commissioner,  
Pune Division, Pune.
3. The Commissioner,  
Kolhapur Municipal Corporation,  
having office at Kolhapur Municipal  
Corporation, Main Building, Shivaji  
Chowk, C-Ward, Kolhapur.
4. Shri. Brigadier Vasant Baburao Patil,  
Age \_\_ years, Occ. Ex-service  
Residing at Sai Pushpa, Plot No. 21,  
Chandan Garden, N.I.B.M.Road,  
Kondwa, Pune ... **Respondents**

.....

Mr. Suryajeet P. Chavan a/w Mr. Atul M. Khilari, for Petitioner  
Mr. Sanjay D. Rayrikar, AGP for Respondent nos.1 and 2 -  
State.

Mr. Abhijit M. Adagule for Respondent No. 3 in WP 722/2025.  
Mr. K. K. Saswade a/w Adv. R.K. Saswade, Adv. A.R. Laykar  
Advocate for Respondent No.4.

.....

**CORAM : SHAILESH P. BRAHME, J.**

**RESERVED ON : 15.09.2026.**

**PRONOUNCED ON : 24.09.2026.**

**JUDGMENT :**

. Heard both sides finally.

**2.** In both the petitions, challenge is raised to the judgment and order passed by the learned Minister on 06.03.2024, rejecting the revision and upholding order dated 03.12.2019 passed by the Sub Divisional Officer, Karvir in R.T.S./A/No. 95/2009.

**3.** The facts and circumstances are identical in both the matters, hence, I propose to decide them by a common judgment. For the sake of convenience, I am referring to the paper-book of Writ petition No. 408/2025 filed by Kolhapur Municipal Corporation. Another petition (Writ Petition No. 722/2025 is preferred by respondent no. 3 - Dilip Desai. The Corporation and respondent no. 2 - Vasantrao Baburao Patil, heir of original owner have rival claim over the title of subject matter i.e. land Gat No. 786/1/A measuring 3-H 69-Are, situated at Kasba Karvir Tq. Karvir.

**4.** Following are the relevant dates and events:

| <b>Sr. No.</b> | <b>Date</b> | <b>Event</b>                                                                                                                                                                                                           |
|----------------|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1)             |             | Survey No. 786 was belonging to predecessor of respondent no.2, Balu Tukaram Patil. It was disintegrated into Survey No. 786/1/A measuring 10 acre and recorded in the name of petitioner Corporation for scum pit.    |
| 2)             | 20.06.1986  | Remaining parts of Survey No. 786 were recorded in the name of heirs of original owners.                                                                                                                               |
| 3)             |             | Resolution passed by the Corporation for excluding land Survey No. 786/1/B, 2 and 3 from reservation.                                                                                                                  |
| 4)             |             | Mutation entry No. 1512 is effected recording name of Corporation to the extent of Survey No. 786/1/A measuring 10 acre and Survey No. 785/1/B in the name of original owner to the extent of 3 acre 19 Are.           |
| 5)             | 03.12.2019  | Being aggrieved, original owner challenged the entry in Appeal No. 95/2009 before Sub Divisional officer and appeal was allowed by remanding it to Tahasildar. This order was not challenged by either of the parties. |
| 6)             |             | Mutation entry No. 59187 was recorded showing name of the original owner, instead of Corporation.                                                                                                                      |
| 7)             | 10.06.2010  | Being aggrieved by the above entry, the Corporation filed Revision before Circle Officer, which was allowed on 10.06.2010 and the entry was cancelled.                                                                 |
| 8)             | 03.11.2010  | Being aggrieved, Appeal No. 133 of 2010 was filed by the respondent no.2                                                                                                                                               |

|     |            |                                                                                                                                                      |
|-----|------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
|     |            | before Sub-Divisional Officer and it was dismissed.                                                                                                  |
| 9)  | 18.02.2023 | Being aggrieved further, Appeal No. 280 of 2010 was preferred before the Collector, which was dismissed.                                             |
| 10) | 27.01.2014 | Being aggrieved, Revision was preferred by the respondent no.2 before the Commissioner, which was allowed.                                           |
| 11) | 30.09.2022 | The petitioner sought review of above order and succeeded.                                                                                           |
| 12) | --         | Being aggrieved, respondent no.2 preferred revision before the Minister.                                                                             |
| 13) | 06.03.2024 | By the impugned, Minister quashed the orders passed by the authorities below and upheld order dated 03.12.2009 passed by the Sub-Divisional Officer. |

**5.** Learned counsel for the petitioner – Corporation Mr. Adagule would submit that order dated 03.12.2009 passed by the Sub Divisional Officer suffers from error of jurisdiction. No order was passed condoning the inordinate delay of 67 years. The land from Survey No.786 was reserved for scumpit and it was acquired to the extent of 9 acre. The remedy was to seek the compensation. The challenge to the mutation entry No. 1512 is unsustainable. It is further submitted that learned Minister in the impugned order and Sub Divisional Officer committed perversity in deciding title. It is further submitted

that there is no point in relegating the parties to the Tahasildar.

**6.** Learned counsel Mr. Chavan, who is representing the petitioner in Writ Petition No.722 of 2025 would submit that original area of the land in question was 12 acre and 24 guntha. Long back, 9 acre and 5 gutha was acquired by the committee and reserved for public purpose. Mutation Entry No. 1512 is long standing and was not subjected to challenge. It is further submitted that his client is interested party and entitled to seek review.

**7.** *Per contra*, learned counsel Mr. Sasavade appearing for the respondents would submit that no record was produced by the committee or the Corporation to show as to how the property was acquired. No documents are placed on record to show title and possession of the Corporation. It is submitted that the resolution was passed releasing the land from the reservation. It is further submitted that Appeal No. 95 of 2009 was accompanied by separate application for condonation of delay. The reasons for the condonation of delay are considered in order dated 03.12.2009. The order passed by the Sub Divisional Officer on 03.12.2009 remained unchallenged and,

therefore, the petitioners are estopped from commenting upon it. The review preferred by petitioner Mr. Desai was barred by time and no application was made for condonation of delay. The mutation entry No. 1512 was effected without issuing notice.

**8.** Having considered the rival submissions of the parties, the crucial point is as to whether the petitioner – Corporation can be said to have acquired part of Survey No. 786 and as to whether mutation entry No. 1512 or 59187 was recorded lawfully. The parties are not seeking any relief of declaration of title from the Revenue authorities. It is permissible for the Revenue authorities to examine relevant documents disclosing right, title and interest of the parties before mutating the record. The observations of the authorities are in summary enquiry and it would not be adjudication on title. In the present case, neither of the parties have approached competent Civil Court asserting the right, title and interest.

**9.** The respondent no.2 – owner of the land had filed Appeal No.95 of 2009 challenging mutation entry No. 1512 along with separate application for condonation of delay. The

order passed by the Sub Divisional Officer on 03.12.2009 refers to grounds of condonation of delay. No specific findings are recorded for condonation of delay and the merits of the matter are gone into. Ultimately, the Sub Divisional Officer allowed the appeal partly and remanded the matter to Tahasildar for reconsideration of the matter vide order dated 03.12.2009. The order passed rightly or wrongly has not been questioned by the respondents before the competent forum. It became final and binding upon the parties.

**10.** The mutation entry No. 59187 was recorded without there being any compliance to the order passed by the Sub Divisional Officer on 03.12.2009. The petitioner – Corporation challenged the said entry by preferring Revision Application No.01 of 2010 before Circle Officer. The revision was allowed vide order dated 10.06.2010. The Circle Officer had no jurisdiction to entertain any challenge to the mutation entry. Further order passed by the Sub Divisional Officer on 03.11.2010, order dated 18.02.2023 passed by the Collector, order dated 17.01.2014 passed by the Commissioner and Order dated 30.09.2022 passed in review are without jurisdiction. Unless inquiry afresh is conducted by Tahasildar,

neither the mutation entry No. 59187 could have been recorded nor orders referred above could have been passed. This aspect of the matter is rightly appreciated by the learned Minister.

**11.** In depth objective scrutiny needs to be conducted into the matter. The existence of mutation entry No. 1512 is yet to be established. The disputed questions of facts need to be adjudicated. For that purpose, order of remand passed by the Sub Divisional Officer on 03.12.2009 is required to be upheld. I do not find any illegality in the order passed by the learned Minister. A plausible view has been taken by referring to all aspects of the matter. The interest of both parties would be safeguarded if the fresh scrutiny is conducted by the Tahasildar.

**12.** Learned counsel for the petitioner Mr. Adagule has relied upon the judgment of **Shrikant R. Sankanwar and Ors. Vs. Krishna Balu Naukudkar** (2003) 2 Mh.L.J. 276 to buttress that Revenue authorities cannot assume the jurisdiction to decide rights of the parties in relation to properties. There cannot be any dispute about the proposition laid down by the Co-ordinate Bench. I have already observed that the scrutiny contemplated

by the Revenue authorities pertains to *prima facie* rights of the parties. Further reliance is placed on the judgment of **Meena A Rizvi the sole proprietor, Meena Constructions Vs. State of Maharashtra & Ors.** (2026) SCC OnLine Bom 818, which also *inter alia* refers to earlier judgment.

**13.** Further reliance is placed on the judgment of **Balkrishna Sadashiv Thakur & Ors. Vs. Prabhakar Sadashiv Thakur & Ors.** (2021) 5 Mh.L.J 669. I have gone through paragraph no.14. The facts of that case are distinguishable from the facts of the case at hand. I have already observed that order passed by Sub Divisional Officer on 03.12.2009 has become final and binding. This judgment will be of no use.

**14.** Learned counsel appearing for respondent No.4 has relied on the judgments in the case of **Rajiv Lalit Sangtani Vs. State of Maharashtra**, (2022) Law Finder Bom 6766 and **Matangee Builders Pvt. Ltd. Vs. Union of India**, (2022) Law Finder Bom (2022) 2518. It would be open for the Tahasildar to examine as to whether due procedure was undertaken before effecting the mutation entry. Further reliance is placed on the judgment of **Shankarrao Premaji Banarase and Ors. Vs.**

**Madarsa Jamia Arabia Islamiya and Ors.** (2023) SCC OnLine Bom 626. The other judgments relied by respondent no.2 are not helpful to decide the controversy involved in the petition.

**15.** Both the petitions are dismissed as they san merit.

**(SHAILESH P. BRAHME, J.)**

**16.** After pronouncement of the judgment, learned counsel appearing for the Petitioner-Corporation prays for continuation of the interim relief granted on 06.06.2026 for further period of eight weeks.

2. Mr. Saswade, learned counsel appearing for the Respondent, opposed the request.

3. The interim relief granted by the coordinate Bench is in operation till date. The same shall remain in operation for further period of six weeks only and shall stand vacated automatically thereafter, without reference to the Court.

4. The parties shall appear before the Tahsildar on 06.11.2026.

**(SHAILESH P. BRAHME, J.)**