



Shakuntala

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.402 OF 2024

1. Shri. Joaquim D'souza,
(Since deceased represented
by his LR's)
80 years of age

1a) Mrs. Joan Matias,
71 years of age, Daughter of
late Joaquim D'souza,
R/o House No. 655,
St. Anthony Waddo,
Anjuna, Bardez, Goa.

1b). Mr. Godfreyy Mathias,
73 years of age, Resident of
House no. 655, St. Anthony
Beach, Anjuna, Bardez, Goa
Represented herein by his
Constituted attorney
Petitioner No. 1(a), Constituted
vide POA dated 16/04/2024,
Executed before notary
A. S D'Mello and Registered in his
office under Sr. No. 306/2024

1c). Mrs. Jean Marshall,
69 years of age,
Represented herein
by her Constituted Attorney,
Petitioner no. 1(a) Constituted vide
POA dated 05/08/2016 executed
before Notary G. K. Korgaonkar
and Registered in his office
under Sr. no. 3038/2016.

1(d) Mrs. June Noronha,
61 years of age, Both resident of

House no. 655, St. Anthony Beach,
Anjuna, Bardez, Goa Represented
herein by his Constituted attorney
Petitioner No. 1(a), Constituted vide
POA dated 16/04/2024, Executed
before notary A. S D'Mello and
Registered in his office under Sr. No. 303/2024

1d). Mrs. Jacinta Sainanee,
66 years of age, Represented herein by
her Constituted Attorney, Petitioner no. 1(a)
Constituted vide POA dated 05/05/2016
executed before Notary A. S. D'mello
and Registered in his office under
Sr. no. 3142/2016.

1e). Mr. Joseph D'souza,
64 year of age, Represented herein
by her Constituted Attorney, Petitioner no. 1(a)
Constituted vide POA dated 05/08/2016
executed before Notary B.D. Nazareth
and Registered in his office under
Sr. no. 3039/2016.

1f). Mrs. Fabiola D'souza,
60 years of age, Resident of
House no. 655, St. Anthony Beach,
Anjuna, Bardez, Goa
Represented herein by his
Constituted attorney Petitioner No. 1(a),
Constituted vide POA dated 16/04/2024,
Executed before notary A. S D'Mello
and Registered in his office under
Sr. No. 305/2024

1g). Mr. John D'souza, 60 years of age,
Represented herein by her Constituted
Attorney, Petitioner no. 1(a) Constituted
vide POA dated 05/08/2016 executed
before Notary B.D. Nazareth and
Registered in his office under Sr. no. 3039/2016.

2. Mrs. Mary D'souza,
92 years of age, Resident of
House no. 655, St. Anthony Beach,
Anjuna, Bardez, Goa Represented
herein by her Constituted Attorney,
Petitioner no. 1(a) Constituted vide
POA dated 12/08/2015 executed
before Notary B.D. Nazareth and
Registered in his office under
Sr. no. 276/2015

....PETITIONERS

VERSUS

1. Ms. Kanti Ganesh Tulaskar,
Major of age,
D/o. late Ganesh Tulaskar,

2. Ms. Shanti Ganesh Tulaskar,
Major of age,
D/o. late Ganesh Tulaskar,

3. Ms. Laxmi Ganesh Tulaskar,
Major of age,
D/o. late Ganesh Tulaskar,
All Resident of House no. 655,
St. Anthony Beach, Anjuna,
Bardez, Goa.

4. Mr. Deepak Sainanee, Major of age,

5. Mr. Thomas Marshall, Major of age,
Resident of House no. 655,
St. Anthony Beach, Anjuna,
Bardez, Goa

...RESPONDENTS

Mr. Ashwin D. Bhobe with Ms. Shaizeen Shaikh, Advocates for
the Petitioners.

Mr. S. D. Lotlikar, Senior Advocate with Ms. S. Kenny, Advocates
for Respondents.

CORAM: BHARAT P. DESHPANDE, J.

RESERVED ON: 13th June, 2024

PRONOUNCED ON: 25th June, 2024

JUDGEMENT

1. Rule.
2. Rule is made returnable forth with.
3. Matter is taken up for final disposal at the admission stage with consent.
4. The present petition is filed challenging the order passed by the learned Administrative Tribunal dated 26.03.2024. By this order, the learned Tribunal allowed the revision filed by the Respondent thereby challenging the order passed by the Deputy Collector. The learned Administrative Tribunal while allowing the revision with cost of Rs.10,000/-(Rupees Ten Thousand only), quashed and set aside the order passed by the Deputy Collector and also the Judgment and Order passed by the Joint Mamlatdar.
5. Similarly, the learned Administrative Tribunal remanded the matter to the Joint Mamlatdar-IV, Mapusa, Bardez-Goa with directions to hear and decide the case afresh after giving full opportunity to both the parties to put forth their case by leading

evidence oral as well as documentary and allowing cross examination of witnesses of the respective parties.

6. The Petitioners being the owner of the suit property filed an application before the Mamlatdar on 04.10.2001 under Section 8(A) of the Goa Daman and Diu Mundkar (Protection from Eviction) Act, 1975, seeking negative declaration praying therein that the declaration be granted that the Respondents are not Mundkars of the structure existing therein. The Respondents contested such proceedings by filing preliminary objections which were rejected by the Mamlatdar. Respondents then filed the appeal before the Deputy Collector who again dismissed the said appeal somewhere in June 2007.

7. Being aggrieved by that Respondents filed revision before the Administrative Tribunal which was registered as Mundkar Revision Application No. 32/A/2007. The learned Tribunal vide its order dated 12.01.2015, dismissed the said revision and accordingly, fixed the matter before the Joint Mamlatdar on 03.02.2015 at 03.00 p.m. However, Respondents failed to appear. In view of the absence of the Respondents, on the subsequent date i.e. on 19.01.2016, the learned Mamlatdar passed an order against the Respondents to proceed ex-parte and allowed the Petitioner to

proceed with the inquiry. Accordingly, the Mamlatdar allowed the application dated 04.10.2001 filed by the Petitioner, thereby declaring that the Respondents are not mundkars of the suit dwelling house. This order of the Mamlatdar was challenged by the Respondent Nos. 1, 2 and 3 by filing appeal before the Deputy Collector along with the application for condonation of delay. After condoning the delay such appeal was taken up on merits. However, on 24.06.2022, the Deputy Collector dismissed the appeal. The Respondent Nos. 1, 2 and 3 then filed revision before the learned Administrative Tribunal which was allowed by the impugned order thereby remanding the matter to the Joint Mamlatdar and allowing the Respondents to contest the matter.

8. Mr. Bhobe appearing for the Petitioner would submit that the observations of the learned Administrative Tribunal are perverse as much more importance is given to the case diary maintained by the Joint Mamlatdar, than the record of the case which includes the roznama having signature of the Mamlatdar. He submits that the diary mentioned by the Mamlatdar and more specifically the date fixed for appearance i.e. 03.02.2015 was blank. Mr. Bhobe would submit that the diary was probably blank showing no date because the matter was not pending before the

Joint Mamlatdar and it was remanded by the order of the Tribunal and therefore, possibly the entry was not affected in the case diary. However, he submits that the roznama of the case clearly shows that on 03.02.2015, the matter was called out before the Joint Mamlatdar stating that the case is remanded by the Administrative Tribunal and accordingly, the Advocate for the Petitioner/Applicant remained absent. He also observed that no one appeared on behalf of the Respondents.

9. Mr. Bhobe would submit that the roznama of the said matter bears the signature of the Mamlatdar as well as that of the Advocate of the Petitioner showing that the matter was taken up at 3:00 p.m. He submits that this roznama entry was never challenged by the Respondents and accordingly, such roznama entry is specifically of the case filed by the Petitioner i.e. MND/SR/OCT/1/2001, whereas, the case diary maintained in the office of the Mamlatdar and that too by the concerned clerk shows no entry on 03.02.2015. He submits that the reason of absence of entry of the case number in the case diary of the Mamlatdar is obvious that it was not running file and that such matter was earlier disposed of by the Mamlatdar on a preliminary objection raised by the parties. He invited attention to the entire roznama of the said

file and claimed that the learned Tribunal as well as the Deputy Collector while condoning the delay, unnecessarily relied upon such case diary claiming therein that there was some confusion.

10. Mr. Bhobe would submit that there is no explanation coming forward from the Respondent as to why they failed to appear before the Mamlatdar on 03.02.2015 and whatever explanation was submitted, is clearly against the record and thus, should not have been believed by the Tribunal.

11. Per contra, Mr. Lotlikar learned senior counsel appearing for the Respondent would submit that the Respondent did appear in the office of the Mamlatdar on 03.02.2015, however, the clerk on perusing the case diary, intimated the Respondents that the case is not fixed on that particular date. The Respondents were also informed that the Mamlatdar is not sitting on that date and accordingly, the Respondents would receive notice fixing the date in the matter. He, therefore, submits that the Respondent were waiting for notice from the office of the Mamlatdar. However, since no such notice was issued they were under the impression that the matter was not taken up on remand from the Tribunal.

12. Mr. Lotlikar would submit that the proceedings in which the matter was taken up is a beneficial legislation and therefore, the

contention of the Respondents once accepted by the Deputy Collector while condoning the delay and not challenged by the Petitioner, was rightly accepted by the Tribunal. He submits that the Deputy Collector while rejecting the appeal on merits completely lost sight of the order passed by the same authority while condoning the delay and accepting the contentions of the Respondents, that there was some confusion created in view of the case diary maintained by the Mamlatdar. He submits that the observation that the roznama entry appears to be manipulated becomes final since the same was not challenged by the Petitioners. He then submits that the possibility of the case put forward by the Respondent cannot be ruled out and since there was confusion due to the absence of the entry in the case diary, the Respondents were allowed to lead evidence and prove their defence on merit. He submits that such procedure adopted by the Tribunal in view of the fact that the Mundkari laws are beneficial legislation cannot be disturbed. He further submits that the learned Tribunal has awarded cost and therefore, the Petitioners have been compensated monetarily.

13. Rival contentions fall for determination.

14. The moot question in the present petition is whether the

learned Tribunal was justified in relying upon the case diary maintained by the Clerk of the Court of Mamlatdar over and above the roznama entry of the matter in question duly signed by the Mamlatdar, to upset the order under the garb of beneficial legislation.

15. The facts which are disclosed above are not disputed at all. The Petitioners are the owners of the suit property who filed an application in the year 2001 itself, claiming declaration that the Respondents are not the Mundkars. After the first round of litigation upto the Tribunal wherein the Respondent challenged the maintainability of the proceedings, the learned Tribunal rejected the contentions of the Respondents as regard to the maintainability of such proceedings and directed the parties to appear before the Mamlatdar on 03.02.2015. Admittedly, this order of the Tribunal was not challenged further. The order of the Tribunal dated 12.01.2015 (Annexure 'E') and more specifically the operative part reads thus:-

Order

“The Mundkar revision is dismissed. The Trial Court shall proceed to decide the matter on merits in accordance with law.

The parties to appear before the Court of Joint Mamlatdar IV, Mapusa, Bardez, Goa on 03.02.2015 at 03.00 pm.”

16. There is no dispute that by the said order dated 12.01.2015, the learned Tribunal rejected the preliminary objections raised by the Respondents to the maintainability of the proceedings before the Mamlatdar and accordingly directed both the parties to appear before the learned Mamlatdar on 03.02.2015 at 3:00 p.m. It further shows that such Mundkarial Revision Application No.32/A/2007 was pending on the file of Administrative Tribunal and during that proceeding including the order passed by the Deputy Collector, the proceedings before the Joint Mamlatdar in case No. MND/SR/OCT/1/2001 were stayed.

17. The roznama of the said case recorded before the Joint Mamlatdar-IV more specifically dated 22.04.2008 and 30.06.2008 reads thus:

22.04.2008		<i>Adv. Chodankar present for applicant, opponent present in person Adv. Submits that _____ have preferred revision before Adm. Tribunal & that R & P are been called for Case adj. and fixed on</i>	30/06/08 10.30 a.m.
30/06/08		<i>Adv. Bandekar present for</i>	

		<p><i>Opponent no 2 & produces the copy of notice issued by the Admn. Tribunal in the revision application. Daughter of the Applicant is present Since the order of Dy. Collector has been challenged the case is kept sine die until the order of Admn. Tribunal _____. Case kept sine die.</i></p>	
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18. From the plain reading of the above roznama recorded by the Joint Mamlatdar-IV in the Case No.01/2001, it is clear that the said case was kept sine die and the records and proceeding was forwarded to the Administrative Tribunal as called for on 30.06.2008.

19. It is the normal practise that once the case is kept sine die i.e. without any date or without conducting any further proceedings and specifically when the records and proceeding of the case is forwarded to the Appellate Authority or Revisional Authority, as the case may be, the Trial Court is not even mentioning such a case in the case diary or recording further notings in the roznama separately.

20. It is an admitted fact that the Mundkarial Revision Application No. 32/A/2007 was pending with the Administrative Tribunal till it was decided on merits by Judgement dated

12.01.2015. By the said order, the learned Tribunal rejected the preliminary objections raised by the Respondents to the proceedings pending before the Mamlatdar and directed the said Mamlatdar to proceed with the matter on merits and in accordance with law. Similarly, both the parties were directed to appear before the Mamlatdar on 03.02.2015 at 3:00 p.m.

21. It is not at all the case of the Respondents that there were no such directions by the Tribunal or that they were unaware of such directions. The record clearly goes to show that in fact the Respondents were fully aware about the directions of the Tribunal in its order dated 12.01.2015, and more specifically that they have to appear before the Mamlatdar on 03.02.2015 at 3:00 p.m. In fact it is the case of the Respondents that they did appear before the Mamlatdar on 03.02.2015 at 3:00 p.m. However the clerk of the Mamlatdar Court informed them that no such case is pending on that date and even the Mamlatdar is not sitting for taking up any matters.

22. With the specific contentions raised by the Respondents for their absence in the matter before the Mamlatdar, which was accepted by the learned Deputy Collector while condoning the delay and further accepted by the learned Tribunal in the impugned

revision, needs to be considered qua the roznama recorded by the Mamlatdar himself on the same date and at the same time and that too in the matter of the case bearing no.1/2001 with his own signatures.

23. The question appearing in the present proceeding is whether the contention raised by the Respondent for their alleged appearance on 03.02.2015 and the reasons given by the clerk, needs to be accepted under the garb of beneficial legislation, qua the record maintained by the Mamlatdar himself by writing the roznama and signing it showing that the matter was taken up and the Petitioner appeared.

24. Learned Mamlatdar on subsequent dates as found in the roznama in case no. 01/2001 proceeded ex-parte against the Respondent, however, the matter continued only for evidence and only on 08.08.2016, part evidence of the Petitioner was recorded. The matter went ahead subsequently for several dates in view of the application file for bringing legal representatives of one of the Petitioners and thereafter final order was passed on 19.09.2016, thereby allowing such application for negative declaration.

25. Thus, it is clear that from 03.02.2015, the Respondents neither enquired nor appeared before the Mamlatdar. Even though

such judgement was passed by the Mamlatdar granting negative declaration, same was not challenged within the period of limitation. It is no doubt true that an appeal was filed by the Respondent along with the application for condonation of delay. Such application for condonation of delay was contested by the Petitioner and by an order dated 25.09.2018, the Deputy Collector/SDO Mapusa allowed such application condoning the delay and directed that the matter/appeal be heard on merits.

26. While deciding such application for condonation of delay, the Deputy Collector placed more reliance on the case diary than the roznama of the Mamlatdar. He observed that from the case diary it is apparent that no hearing had taken place on 03.02.2015 and that the date of previous hearing in the roznama dated 12.02.2015 is shown to be 02.02.2015 which was not the date fixed by the Tribunal. With this, the learned Deputy Collector observed that from case diary it is apparent that the learned Mamlatdar acted in total contravention of law. At one stage the learned Deputy Collector even passed a remark that it appears that the roznama appears to be manipulated, which is not at all the case of the Respondents.

27. Be that as it may, it is a fact that the Petitioners did not challenge such findings of the learned Deputy Collector in its order dated 25.09.2018 while allowing the delay application and permitting the Respondents to argue the matter on merit.

28. It is also a matter of record that the learned Deputy Collector while deciding the appeal filed by the Respondents dismissed the said appeal on merits and confirmed the ex-parte order passed by the learned Mamlatdar.

29. Such order dismissing the appeal on merit was challenged before the learned Administrative Tribunal and by the impugned order dated 26.03.2024, it allowed the revision by placing more reliance on the case diary of the Mamlatdar and not on the Roznama.

30. Mr. Lotlikar would submit that the learned Tribunal has rightly observed that the Deputy Collector/SDM while deciding delay application admits the same reasons as genuine, however, rejected the appeal by holding contrary to it. He submits that the Petitioner by not challenging the order of condoning delay, accepted the contentions and observations of the Deputy Collector, which are subsequently confirmed by the Revisional Court. He submits that such observations of the Revisional Court needs no

interference under the supervisory power of this Court since the Petitioner is compensated with money/cost. He submits that since Mundkarial Act is a beneficial legislation, the Respondents were claiming to be mundkars are required to be allowed to contest the matter on merits.

31. From the records and undisputed facts, it is clear that in Mundkarial Revision Application No.32/A/2007, decided on 12.01.2015, the learned Administrative Tribunal directed both the parties to appear before the Joint Mamlatdar – IV on 03.02.2015. Both parties knew about such a direction. The Respondents are specifically claiming that they appeared before the office of Joint Mamlatdar on 03.02.2015 at 3:00 p.m., however, the clerk of the Mamlatdar informed that there is no such case pending, on the basis of the noting in the case diary. It is further their case that they were informed that the Mamlatdar is not sitting on that day and was not taking any matter and therefore, the next date would be intimated to them by a separate notice.

32. This particular defence or contention raised by the Respondent is disputed by the Petitioners by a documentary evidence that is the roznama dated 03.02.2015 on file no. 01/2001 recorded by the Mamlatdar and signed by himself together with the

signature of Advocate for the Petitioner.

33. The case diary maintained in the office of Mamlatdar and more specifically on 03.02.2015 is blank. The reason for no entry and more specifically of Case No. 01/2001 on 03.02.2015 in the case diary of Joint Mamlatdar-IV is apparent. Case No.01/2001 was kept sine die on 30.06.2008 as per the roznama quoted earlier. Thus as per the prevailing practice the case kept sine die is not required to be kept in the case diary maintained for the year 2015.

34. Roznama dated 03.02.2015 in case no. 01/2001 reads thus:

<i>Date</i>	<i>No. of Exhibit</i>	<i>Case No.</i>	<i>Date to which the case is adjourned</i>
03.02.2015		<p><i>Matter called for first time after this case was remanded back by the Administrative Tribunal after orders were passed by it in Case No./Mundkar/Revision Application No.32-A/2007. Advocate for applicant present. None present for Opponent. Matter adjourned and fixed on</i></p> <p style="text-align: center;"><i>sd/- Signature of the Joint Mamlatdar-IV</i></p>	<p><i>12.02.2015 at 3:00 p.m. sd/- Signature of the Advocate for the Petitioner</i></p>

35. It is an admitted fact that the Respondent nowhere challenged such entry in the roznama of Case No.1/2001, however, it is only their case that though they appeared on 03.02.2015 at 3:00 pm, the clerk told them that no case is pending on that date.

36. The case diary was blank which is obvious as the case was not pending on the file of Joint Mamlatdar IV in the year 2015 itself as it was adjourned sine die in the year 2008, there was no question of recording such a date in the case diary. Besides the case diary is normally maintained by the clerk. Such case diary is not having any signature either of the Mamlatdar or of the concerned clerk. Thus, the question remains as to whether the case diary maintained by the clerk would prevail upon the notings in the file recorded by the Mamlatdar himself and duly signed at a particular time.

37. Once it is found that the roznama entry is genuine and not challenged anywhere in the proceedings, it shows that the Mamlatdar was very much present in his office and took up the matter on 03.02.2015 at 3:00 p.m., itself. The question now remains as to whether the Respondent were actually present in the Office of Mamlatdar on 03.02.2015 at 3:00 p.m. The contention of the Respondent that he was present on 03.02.2015 at 3:00 p.m. is

hard to believe in view of the Roznama entry duly signed by the Mamlatdar. Contention of the Petitioner about his presence and taking up the matter is supported by document and thus, contentions of Respondent which is not supported by any document must be considered as incorrect. Undue importance is accorded to the entries in the case diary. In fact, no entry in the case diary maintained by the learned Tribunal is over and above the roznama entry which is duly signed by the learned Mamlatdar.

38. It is impossible to digest that the Petitioners along with their Advocate were present in the Court of Joint Mamlatdar-IV on 03.02.2015 at 3:00 p.m. and the Respondents were also present, but the Respondents were told only by the clerk that since the matter is not on the diary and the Mamlatdar is not available, notices will be issued separately, when at the same time the Mamlatdar took up the matter and recorded his opinion in the roznama of the matter duly signed by him in presence of the Advocate of the Petitioner.

39. Thus, the roznama dated 03.02.2015, signed by the Mamlatdar ought to have been considered as an authenticate record maintained by the said Mamlatdar while conducting the proceedings. The case diary dated 3.02.2015 could not have been

believed for the simple reason that Case No.1/2001 was not pending on the file of the Joint Mamlatdar-IV as the records and proceedings were already forwarded to the Tribunal in the year 2008, itself. Thus, it is apparent that there was no entry of the Case No.1/2001 in the case diary dated 03.02.2015, as order of remand was passed only on 12.01.2015 by the Tribunal.

40. The second contention raised by Mr Lotlikar is that the case diary of 12.02.2015 shows that Case No.1/2001 was taken up on 02.02.2015. It is no doubt true that the copy of the case diary dated 02.02.2015, shows some entry with regard to Case No.1/2001 showing that it was taken up on 02.02.2015, however the case diary dated 02.02.2015 nowhere reflects that Case No.1/2001 was taken up on 02.02.2015. Therefore, the question of creating confusion nowhere appears from the record itself. The explanation that the case diary on 03.02.2015 was blank is apparent, since the case was not pending and it was kept sine die list in the year 2008 itself has to be accepted. The matter was remanded by the learned Administrative Tribunal vide its order dated 12.01.2015. Thus, the contention of the Respondents that they appeared before the Mamlatdar on 03.02.2015 at 3:00 p.m. is apparently an incorrect statement for the simple reason that the learned Mamlatdar vide its

roznama entry recorded clearly that he was very much in the office and took up the matter at 3:00 p.m. wherein only Advocate for the Petitioner appeared and signed the roznama. In absence of any challenge to such roznama entry having signature of the Mamlatdar, it certainly prevails upon the case diary maintained by the clerk and the so called statement of the Respondent that they were informed by the clerk that the case was not taken up on that date cannot be accepted in view of the roznama entry.

41. The roznama must prevail over the case diary entries, even if there is some confusion in such case diary.

42. This is the only reason recorded by the learned Tribunal for quashing of the order of the learned Mamlatdar as well as of the Deputy Collector and remanding the matter to the Joint Mamlatdar. Once it is found that the roznama entry dated 03.02.2015 prevails upon the case diary maintained by the clerk, it is apparent that the contentions raised by the Respondent that they appeared before the clerk who told that the case will not be taken up, needs to be discarded. When the written record prepared by the Mamlatdar himself shows that the matter was taken up on 03.02.2015 at 3:00 p.m., such record must prevail over the case diary maintained by the clerk of the court of Mamlatdar.

43. It further shows the presence of the Mamlatdar in the Court and taking up the matter that too in the presence of the Advocate for the Petitioner. There is signature of the Mamlatdar below the said roznama entry together with signature of the Advocate for the Petitioner, thereby noting the next date.

44. Record shows that the application for negative declaration was filed in the year 2001 whereas the remand order by the Administrative Tribunal was passed on 12.01.2015. Thus, it is clear that the matter was kept sine die from 2008 till 03.02.2015 and hence there was no entry in the case diary.

45. The negligence on the part of the Respondent to appear before the concerned Mamlatdar is also apparent. No affidavit of the concerned clerk was filed in the proceedings for condoning delay to show that he informed the Respondent that no such matter is pending and that the Mamlatdar was not sitting in the Court on 03.02.2015. Thus, believing such statement against the clear record created by the Mamlatdar himself shows perversity in the order. Such findings cannot be accepted only under the garb of beneficial legislation. The party who is completely negligent and not appearing before the Mamlatdar on the date fixed by the Administrative Tribunal, cannot take advantage of absence of an

entry in the case diary and specifically when the roznama shows otherwise. The matter is pending from 2001 itself and though it was remanded in 2015, finally it was decided by the Mamlatdar vide its order dated 19.09.2016. Thus, from 03.02.2015 till the disposal of the case by the Mamlatdar on 19.09.2016, no efforts were made by the Respondents to inquire about the matter. The statement of the Respondent that the clerk told him that a fresh notice will be issued is only an excuse and an apparent lie only to condone the delay and challenge the matter decided on merits.

46. This Court under the supervisory jurisdiction under Article 227 is entitled even to look into apparent mistake or perverse findings of the Courts below. The learned Administrative Tribunal by accepting findings recorded by the Deputy Collector while condoning the delay, committed serious mistake by accepting and believing entry in the case diary and completely ignoring the roznama duly signed by Mamlatdar as well as the Advocate for the Petitioner on 03.02.2015 at 3:00 p.m.

47. Such findings of the learned Administrative Tribunal while giving more importance to the case diary maintained by the clerk and ignoring the roznama duly signed by the Mamlatdar is clearly perverse and therefore, needs interference in the supervisory

jurisdiction. If such findings are allowed to be maintained, the wrong entries recorded in the case diary and that too by the clerk of the Court without having any signature would prevail upon the roznama duly recorded and signed by the Presiding Officer, giving a clear chance to manipulate the case diary. Accordingly, such observations of the learned Administrative Tribunal cannot sustain in the eyes of law.

48. Only because the Mundkarial Act is a beneficial legislation, it cannot be allowed to pass such order in favour of such party who is apparently negligent and more so coming up with a false story.

49. The observations of the learned Tribunal in para 13 that there was some doubt created with regard to the sitting dated 03.02.2015 due to the blank page entry in the case diary on 03.02.2015, appears to be perverse findings and incorrect observation of the facts of the matter. As earlier discussed that the case diary was blank on 03.02.2015 only because Case No.1/2001 was not pending on the file of the concerned Mamlatdar since the records and proceeding were forwarded to the Administrative Tribunal by keeping the matter sine die in the year 2008, itself. Thus, there was no occasion for the concerned Mamlatdar or the clerk to record any entry of the Case No.1/2001 in the case diary

on 03.02.2015. It is not the case of either of the parties that the Joint Mamlatdar-IV received the case papers from the Administrative Tribunal prior to 03.02.2015. Even if it is so, absence of the entry on the case diary on 03.02.2015, could not have been relied upon, specifically when the roznama entry of Case No.1/2001 shows otherwise.

50. Having said so, the impugned order needs interference. Consequently, impugned order dated 26.03.2024 passed by the Administrative Tribunal in Mundkar Revision Application No. 09/2022 is hereby quashed and set aside. The order of the Deputy Collector in case number DC/MND/MAP/APL/BAR-I/2/2017 dated 24.06.2022 stands restored.

51. Rule is made absolute in above terms.

52. Parties shall bear their own costs

BHARAT P. DESHPANDE, J.