



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2103 OF 2021
WITH
WRIT PETITION NO.2105 OF 2021

Ravindra Laxman Borole,
Aged 56 years, Occu.: Business,
R/at: Borole Estate, Dr. R.P Road,
Ram Nagar, Dombivli, Taluka:
Kalyan, District Thane.

... Petitioner

V/s.

1. **The State of Maharashtra**
(through Hon'ble Revenue Minister,
Mantralaya, Mumbai 400 032
2. **The Additional Collector,**
District Thane.
3. **The Sub-Divisional Officer,**
Kalyan Sub-Division, Kalyan,
Taluka Kalyan, District Thane.
4. **The Tahsildar, Kalyan**
Taluka Kalyan, District Thane.
5. **Anjani Bhaskar Bhole**
6. **Vatsalabai Vishnu Choudhary**
7. **Kiran Bhaskar Bhole**
8. **Sushila Namdeo Dhake**
9. **Bharti Yogesh Attarde,**
Nos.5 to 9 through their Constituted
Attorney Dinesh Ramsundar
Vishwakarma, residing at Room No.
C-101, Sarvodaya Park, Nandivali
Road, Near Swami Samarth Math,
Dombivli, Taluka Kalyan,
District Thane.

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10. **Pandharinath Savlaram Mhatre,**
since deceased through legal heirs
- 10A. **Anjani Pandharinath Mhatre**
- 10B. **Leena Vinayak Bhoir**
- 10C. **Pooja Gajanan Patil**
- 10D. **Kunal Pandharinath Mhatre**
- 10E. **Amar Pancharinath Mhatre**
deceased through legal heirs
- 10E1. **Swati Amar Mhatre**
- 10E2. **Pruthvi Amar Mhatre**
- 10E3. **Ayushi Amar Mhatre,**
Nos.10A to 10E3, residing at
Lina Chhaya Bungalow, Tahkurwadi,
Kalu Nagar, Pandit Dindayal Cross
Road, Dombivli (W), District Thane. ... **Respondents**

Mr. Sunil G. Karandikar with Ms. Ankita P. Pandit, Mr. Abhijit Kadam, Mr. Jayesh Joshi, Mr. Ashish Chavan i/by Ms. Sonali Sase for the petitioner.

Mr. Anil Anturkar, Senior Advocate with Ms. Gargi Warunjikar, Ms. Shweta Jadhav, and Ms. Kashish Chelani i/by Mr. Aditya Thorat for respondent Nos.5 to 9 in WP/2103/2021.

Dr. Uday Warunjikar i/by Mr. Aditya Thorat for respondent Nos.5 to 9 in WP/2105/2021.

Mr. Vaibhav D. Kadam with Ms. Vedika Bhoir i/by Mr. Shrinath Badade for respondent No.10.

Ms. Savita A. Prabhune, AGP for the State.

CORAM : AMIT BORKAR, J.

RESERVED ON : 28 MARCH 2025

PRONOUNCED ON : 28 APRIL 2025



JUDGMENT:

1. The present case raises an important question concerning the appellate and revisional remedies under the Maharashtra Land Revenue Code, 1966 (“MLRC”). During the hearing, it became apparent that there is a direct conflict of interpretation in the judgments of this Court regarding the scope of appeal and revision against an order condoning delay and admitting an appeal under the MLRC. The conflicting views expressed in several decisions by coordinate Benches have created uncertainty in the application of Sections 251, 252, 255, 257, and 259 of the MLRC.

2. Mr. Karandikar, learned counsel for the petitioner, contended that the judgments delivered in Writ Petition No. 5716 of 2024 and Writ Petition No. 12965 of 2023 have failed to properly appreciate the legal position arising under Section 252 of the Maharashtra Land Revenue Code, 1966 (hereinafter referred to as “the Code”). According to him, Section 252 merely bars the remedy of an appeal from certain orders enumerated therein. However, the said section does not declare such orders as *final and conclusive* for all legal purposes. He argued that a mere bar on appeal does not ipso facto clothe the order with the attribute of finality. In contrast, the Legislature has, in several provisions of the Code, expressly employed the expressions “final” and “conclusive” while declaring the effect of certain orders. In this regard, reliance was placed on Section 259 of the Code, which, according to learned counsel, comes into operation only when the provision under which the order or decision is passed expressly declares it to be “final” or “conclusive.” It was pointed out that Section 252 does not contain



the said expressions. Therefore, the inference drawn in the earlier decisions equating bar of appeal with finality and conclusiveness is legally untenable. Learned counsel submitted that Sections 21(5), 137(4), and 162(2) of the Code clearly specify that the orders passed under those provisions are final, whereas Sections 23, 52(2), 175, 218(5), and 270(2) declare the orders passed therein to be conclusive. In contrast, Section 252 does not use either of these expressions, thereby indicating the legislative intent to merely bar an appeal without conferring absolute finality.

3. He further submitted that Section 259, which appears to operate as a limitation on the exercise of revisional jurisdiction by the State Government under Section 257, has been erroneously interpreted in a restrictive sense. It was argued that Section 259 is essentially a clarificatory provision and not a source of power. Its purpose is to clarify that even where a provision declares an order or decision to be final or conclusive, the revisional power under Section 257 may still be exercised unless expressly excluded. He contended that Section 257 confers a wide power of revision on the State Government and revenue officers, which includes scrutiny of not only the legality but also the *propriety* and regularity of proceedings. Hence, to say that Section 259 limits Section 257 in the absence of the words “final and conclusive” is a misreading of the scheme of the Code. Referring to Section 255, learned counsel urged that the said provision merely outlines the stages at which the appellate authority may pass orders. It has no bearing on the revisional powers under Section 257. The revisional jurisdiction under Section 257 is independent, both in character



and purpose, and cannot be curtailed merely by reference to procedural sections such as Sections 251 or 255. He emphasized that amended Section 257(4) makes it clear that revisional jurisdiction is conferred concurrently on revenue officers and the State Government, and such jurisdiction can be exercised by either, though only once. Moreover, the order condoning delay does not become immune from revision merely because it is procedural. The power under Section 257(1) permits examination even of such orders for their legal correctness, propriety, and procedural regularity.

4. On the strength of these submissions, learned counsel urged that certain important legal questions arise, which require authoritative determination by a larger Bench, including:

(a) Whether a provision barring appeal (like Section 252) can be treated as equivalent to a provision rendering an order final or conclusive, thereby foreclosing the revisional jurisdiction under Section 257;

(b) Whether the act of “admission” of an appeal under Section 251 is merely administrative or has quasi-judicial implications, especially in light of the appellate procedure under Section 255; and

(c) Whether Section 259 is a source of jurisdiction or merely a clarificatory provision which does not curtail the revisional jurisdiction otherwise vested under Section 257(1).

5. Per contra, Mr. Anturkar, learned counsel opposing the reference, submitted that the expressions “decision” and “order”



are employed distinctly and advisedly in the Code. According to him, a decision is a quasi-judicial determination, whereas an order is more in the nature of an executive directive. He drew attention to Section 259 to point out that the Legislature has maintained this distinction with consistency, and that an “inquiry” under Section 257 typically results in a “decision” whereas a “proceeding” may culminate in an “order.” He submitted that since Section 251 covers both orders and decisions, the bar under Section 252 applies with equal force to both, and cannot be read down merely due to absence of the words “final and conclusive.” It was further submitted that Section 259 cannot be interpreted to expand the revisional power. Rather, it imposes a limitation that where an order is expressly made final or conclusive by a provision in the Code, no revision shall lie. It was reiterated that Section 259 does not itself confer jurisdiction but merely restricts its exercise in specified circumstances.

6. In support of his submission, he referred to various provisions such as Sections 21(5), 28(2), 34(3), 49(4), 49(7), 50(6), proviso to Section 83, 100(3), 124(1), 137(4)(b), and the proviso to Section 155, which expressly declare certain orders to be final. Likewise, Sections 23, 52(2), 175, and 218(2) declare the conclusiveness of orders passed therein. These provisions demonstrate that when the Legislature intended to exclude revisional or appellate remedies, it did so expressly.

7. Relying upon the principle of judicial discipline and the constitutional convention laid down by the Supreme Court in *Sundarjas Kanyalal Bhatija v. Collector, Thane*, (1989) 3 SCC 396,



learned counsel submitted that if a coordinate Bench finds itself unable to agree with an earlier view, it must refer the matter to a larger Bench rather than take a divergent view. In paragraphs 18 to 20 of the said judgment, the Supreme Court emphasized that consistency, certainty, and judicial propriety demand adherence to the precedents laid down by coordinate Benches unless overruled by a larger Bench.

8. Mr. Warunjikar, learned counsel for the State, submitted in reply that no such reference is required. He contended that the judgment in *Praveen Thakur* rightly interprets the scheme of the Code. He also submitted that the order dated 31st December 2019 passed by the Sub-Divisional Officer was a *composite order*, and in that context, the question of revisional jurisdiction did not arise in the manner suggested. According to him, the matter has been rightly decided and does not call for reference.

Factual Context:

9. In the case at hand, the Sub-Divisional Officer (“SDO”) – acting as the first appellate authority under the MLRC – condoned a significant delay in filing an appeal and admitted the appeal for hearing on merits. The aggrieved Petitioner (original respondent in the revenue appeal) sought to challenge that condonation order before the next higher revenue authority (the Additional Collector). The Additional Collector, however, declined to entertain the challenge, observing that under the MLRC no appeal lies from the SDO’s order admitting the appeal after condoning delay, and that such an order is final, amenable only to the State



Government's revisional power. The Petitioner has therefore invoked this Court's writ jurisdiction, contesting the correctness of the Additional Collector's refusal. This scenario squarely calls for an interpretation of the MLRC's appellate scheme, and it brings into focus the conflicting High Court precedents on the point.

Statutory Framework under the MLRC:

10. Section 251 – Admission of Appeal after Limitation: Section 251 empowers an appellate authority to admit an appeal (or application for review) even after the prescribed limitation period, if the appellant shows sufficient cause for the delay. In effect, this provision allows condonation of delay and permits a belated appeal to be heard on merits. An order under Section 251 does not decide the merits of the appeal; it only removes the time-bar by admitting the appeal late.

11. Section 252 – Bar on Certain Appeals: Section 252 then imposes an explicit bar on filing an appeal against certain kinds of orders. Relevant here, Section 252(a) provides that “No appeal shall lie from an order admitting an appeal or an application for review under Section 251.” Section 252 further bars appeals against an order rejecting an application for revision or review, and against an order on a stay application. The legislative intent is to prevent interminable litigation over interlocutory orders in the revenue hierarchy.

12. Section 255 – Powers of Appellate Authority: Section 255 describes the powers and procedure of the appellate authority. Under Section 255(1), upon receiving an appeal the appellate



authority may either admit the appeal for full hearing or summarily reject it after calling for the record and hearing the appellant (except in certain cases like time-barred appeals). If the appeal is admitted, Section 255(2) mandates fixing a date for hearing and issuing notice to the respondent. After hearing both sides, the appellate authority can confirm, vary or reverse the order under appeal, or pass such orders as needed (including remand) as per Section 255(3). In the present context, Section 255 underscores that once an appeal (even a delayed one) is admitted, it proceeds to hearing on merits, implying that the condonation of delay under Section 251 is essentially a step leading to admission of the appeal for decision.

13. Section 257 – Revisional Jurisdiction: Section 257 confers revisional powers on certain revenue authorities. In essence, it enables specified officers and the State Government to call for the record of any subordinate revenue officer and examine the legality or propriety of any decision or order. The provision is structured in sub-sections delineating who may exercise revision and in what circumstances. Notably, Section 257(1) permits revision applications within a prescribed time to certain authorities; Section 257(4) reserves a residuary revisional power to the State Government. In particular, where no appeal lies against a subordinate officer's order, the revision may lie to the State Government. (This aspect is reinforced by Section 259, discussed next.) Thus, Section 257 establishes a hierarchical supervisory jurisdiction to correct errors in orders of subordinate revenue officers, either by departmental superiors or ultimately by the



Government.

14. Section 259 – Finality of Orders and Exclusive Revision by State: Section 259 is a crucial finality clause in the MLRC. It provides that whenever the Code declares a decision or order to be “final” or “conclusive,” the effect is that no appeal lies from such decision or order; however, the State Government may still modify or set it aside in revision under Section 257. In full, Section 259 states: “Whenever in this Code it is provided that a decision or order shall be final or conclusive, such provision shall mean that no appeal lies from any such decision or order; but it shall be lawful to the State Government alone to modify, annul or reverse any such decision or order under the provisions of Section 257.” This section makes it clear that where the Code bars an appeal (thereby making the order *final* in the appellate sense), the revisional jurisdiction is restricted exclusively to the State Government. Lower revenue officers cannot exercise revision in such cases, since the finality clause “shall mean” only the State Government can interfere.

Older View – Appeal or Revision to Immediate Superior Allowed:

15. Earlier decisions of this Court had taken the view that an affected party could seek recourse against an order of the SDO admitting a delayed appeal by approaching the next higher revenue authority. In *Balwant Narayan Thale v. Pushplata V. Patil* (W.P. No. 8673 of 2016, decided 9 January 2017) a learned Single Judge upheld the maintainability of an appeal to the Additional Collector against the SDO’s order condoning delay.



16. Similarly, in *Kanchanbai Baburao Sukalkar v. Addl. Commissioner, Aurangabad* (W.P. No. 6966 of 2017, decided 13 February 2019) the same approach was reiterated. These judgments drew a fine distinction between the act of condoning delay and the formal admission of the appeal, reasoning that the aggrieved party should have an opportunity to challenge the condonation decision immediately (in effect treating it as if it were a separate “decision” open to second appeal or revision). Consequently, under this view, while no direct appeal lay under Section 252, the higher revenue authority could treat the challenge as a revision under Section 257 (or in some cases as a second appeal if the hierarchy permitted) and intervene in the SDO’s order.

17. In *Ahmad (Abdul) Ambir Shaikh* (decided in 2020), another coordinate Bench similarly entertained a revision by the Additional Collector against an SDO’s delay-condonation order. All these decisions in substance allowed the aggrieved party a remedy before an intermediate revenue authority (Additional Collector/Commissioner), thereby tempering the strict language of Section 252.

Rationale of Older View:

18. The underlying rationale in the above cases was that a decision to condone a long delay affects valuable rights of the opposing party (by resurrecting a stale claim), and hence fairness demanded a corrective oversight at the earliest stage. The Courts in *Balwant Thale* and *Kanchanbai Sukalkar* recognized a



distinction between the merits of the appeal and the threshold question of delay. They opined that while Section 252 bars an “appeal” in a technical sense, the Code did not intend to leave a party remediless against an unjustified condonation of delay. Therefore, those Benches permitted the challenge through the revisional route to the immediate superior, effectively construing Section 257 as allowing an Additional Collector or Commissioner to step in. In doing so, however, the earlier judgments did not explicitly address the restraining effect of Section 259’s finality clause on the *locus* of revisional powers. Notably, *Balwant Thale (supra)* held that “the Additional Collector is the revisionary authority over the order passed by the SDO”, thus implying that Section 259 was not seen as confining the power to the State Government in that context.

Contrary View in *Sadanand Tukaram Suroshe* (2024):

19. A divergent view was forcefully expressed by a later Single Judge in *Sadanand Tukaram Suroshe v. Ashok Gajanan Suroshe & Ors.* (W.P. No. 12965 of 2023, decided 28 March 2024). In that case, Co-ordinate Bench examined the scheme of Sections 251, 252, 255 and 259 closely and held that the MLRC does not permit any appeal to the Additional Collector against an order of the SDO admitting an appeal after condoning delay. The Court concluded that by virtue of Section 252, “the order of SDO admitting the appeal after condoning the delay is not appealable”, and “the only remedy available to the petitioner is the remedy of revision. Further, addressing the proper forum for such revision, the judgment held that “by virtue of Section 259 of the MLRC, the



order admitting the appeal being final as no appeal lies from such decision, the revision would lie before the State Government.” In other words, *Sadanand Suroshe* decided that an aggrieved party *must* approach the State Government in revision and cannot invoke the jurisdiction of the immediate appellate/revisional officer (such as an Additional Collector). This marked a clear departure from the *Balwant Thale* line of cases.

Reasoning in *Sadanand Suroshe*:

20. In the detailed reasoning, it is observed that Section 252’s bar on appeals is unequivocal and applies squarely to an order made under Section 251. The Code prescribes no separate procedure for “admission” of an appeal after delay is condoned – effectively, once delay is condoned, the appeal stands admitted and Section 252(a) attaches. The Court noted that earlier co-ordinate decisions (such as *Ahmad Ambir Shaikh* and *Balwant Thale*) had been decided without considering the impact of Section 259. In paragraph 29 of the judgment, the learned Judge expressly held *Ahmad Ambir Shaikh* to be per incuriam for having been rendered “without noticing the provisions of Section 259 of the Code,” and similarly found that *Balwant Narayan Thale* had “ignored the provisions of Sections 255 and 259”. Those earlier cases had drawn a “fine distinction” between admission of appeal and condonation of delay; but *Sadanand Suroshe* “obliterated” that distinction as artificial. The Court reasoned that even if the appeal is formally posted for hearing on merits after condonation, any further appeal by the aggrieved party is statutorily barred by Section 252, and finality attaches to the condonation/admission



order. The only recourse is the special revision contemplated by Section 259, which lies exclusively to the State Government. Thus, *Sadanand Suroshe* aligns the interpretation strictly with the text of Sections 252 and 259 – no intermediate challenge is permitted; the structure intentionally centralizes the revisional remedy with the State to avoid multiple tiers of challenge on interlocutory orders. This view gave primacy to the finality clause and the intention to avoid fragmenting the appellate process.

Renewed Divergence in Ashokrao Ganpati Ghatge (2024):

21. Shortly after *Sadanand Suroshe*, another coordinate Bench weighed in with a conflicting approach. In *Ashokrao Ganpati Ghatge & Ors. v. Madhavrao R. Ghatge & Ors.* (W.P. No. 5561 of 2022, decided 27 September 2024), a learned Single Judge disagreed with the constraints adopted in *Sadanand*. In *Ashokrao Ghatge*, the Court held that nothing in the MLRC imposed an “embargo” on filing an appeal against an order condoning delay. The judgment explicitly noted that it had considered the ratio of *Sadanand Suroshe*, yet it arrived at the opposite conclusion that an appeal (or at least a challenge) to the immediate superior was maintainable despite Section 252. Effectively, *Ashokrao Ghatge* realigned with the earlier *Balwant/Kanchanbai* view, allowing an aggrieved party to contest the SDO’s delay-condonation order before the Additional Collector. It appears that *Ashokrao Ghatge* interpreted the scheme to mean that Section 252 bars a formal “appeal” in name, but does not bar the higher authority’s oversight altogether. By doing so, this decision created a direct conflict with the holding in *Sadanand Suroshe*.



Position in Ashokrao Ghatge:

22. The submissions recorded in the papers indicate that the Court took guidance from the earlier precedents of *Balwant Thale* and *Kanchanbai Sukalkar* (which *Sadanand* had distinguished), and preferred their rationale over *Sadanand's*. *Ashokrao Ghatge* found that the Code did not expressly forbid a challenge by way of revision/appeal to the next officer and that Section 259 did not prevent such officer from exercising revisional powers in that scenario. In doing so, the Bench implicitly gave a narrower reading to Section 259 – possibly treating the SDO's condonation order as not falling under an order “expressly made final” or otherwise not invoking the exclusive jurisdiction of the State Government. This interpretation, whether on account of a different understanding of “final/conclusive” or the nature of the order, stands in stark contrast to the *Sadanand* line. As a result, by late 2024 there were two inconsistent lines of authority within the Bombay High Court: one funneling the remedy only to the State, the other permitting an intra-departmental challenge to the Additional Collector/Commissioner.

Most Recent View in *Pravin Gajanan Thakur* (2025):

23. The cleavage in opinions prompted yet another detailed examination in *Pravin Gajanan Thakur & Ors. v. Sou. Kalpana V Raut & Ors.* (W.P. No. 5716 of 2024, decided 21 February 2025). In that judgment, the learned Judge acknowledged the “series of judgments” by coordinate Benches and the confusion caused thereby. Upon an exhaustive analysis, the Court in *Pravin Gajanan*



Thakur affirmed the reasoning of *Sadanand Suroshe* as the correct interpretation of the statutory scheme. The learned judge agreed that Section 252, read with Section 259, bars any second appeal to the departmental appellate authority if the first appellate authority has admitted the appeal after condoning delay. The judgment notes that *Sadanand Suroshe* “correctly interpreted” Sections 251 and 252 after noticing Section 255, holding that even when an appeal is admitted upon condonation, further appeal is barred. It further observes that the prior coordinate decisions in *Ahmad Ambir Shaikh* and *Balwant Thale* had overlooked Section 259, and were thus not binding. In fact, *Pravin Thakur* goes so far as to hold those earlier contrary decisions to be made per incuriam or distinguishable. The Court emphasizes that learned judge in *Sadanand Suroshe* had “obliterated the fine distinction” that *Balwant Thale* and *Kanchanbai* tried to draw between ‘admission’ and ‘condonation’, thereby aligning the practice with the letter of the law.

Outcome of Pravin Gajanan Thakur:

24. In *Pravin Thakur*, the learned Judge ultimately followed the *Sadanand Suroshe* view and allowed the writ petition, setting aside the Additional Collector’s refusal and directing that the challenge to the SDO’s order be addressed in accordance with law (which, by that logic, would mean referring the petitioner to pursue revision before the State Government). Importantly, *Pravin Thakur* underscored the need to avoid confusion and maintain consistency.



Distinction between 'Decision' and 'Order' under the Code

25. At this juncture, it becomes necessary to record a significant legal aspect which appears to have escaped consideration in the earlier judgments rendered by coordinate Benches, whether they espouse the older view or the contrary view as expressed in *Sadanand Suroshe*, *Ashokrao Ghatge*, and *Pravin Gajanan Thakur*. Upon a careful reading of the respective pronouncements, it is evident that neither line of authority has undertaken a detailed or deliberate analysis of the jurisprudential difference between the expressions '*decision*' and '*order*' as employed under the Code. The distinction between these two expressions is neither incidental nor merely a matter of phraseology. The Code, at several places, uses the terms '*decision*' and '*order*' together, and in some places distinctly, thereby indicating a conscious legislative intent to distinguish between the two. It is a well-settled principle of statutory interpretation that the Legislature does not indulge in superfluity, and each word used in a statute must be given its due meaning and effect. In the context of the Code, the expression '*decision*' ordinarily refers to a substantive adjudication — a determination of rights, obligations, or liabilities of parties after consideration of evidence and application of mind to the issues at hand. On the other hand, the expression '*order*' generally refers to a procedural or interlocutory direction, regulating the course of proceedings without finally adjudicating upon substantive rights. It is unfortunate that neither the judgments supporting the older view nor the judgments taking the contrary position, including *Sadanand Suroshe*, *Ashokrao Ghatge*, and *Pravin Thakur*, have



paused to consider whether the act of condoning delay under Section 251 of the Code and admitting the appeal thereafter amounts to a '*decision*' or merely an '*order*' for the purposes of Section 252 read with Section 259 of the Code. Had this distinction been examined in detail, it may have led to a different or a more nuanced understanding of the effect of Sections 251, 252, 255, 257, and 259 of the Code, particularly regarding the availability of remedies by way of appeal or revision. The lack of focused consideration on the legal import of the terms '*decision*' and '*order*' has resulted in a situation where coordinate Benches have interpreted the statutory scheme based primarily on the perceived legislative policy behind finality clauses, without engaging with the foundational difference in the nature of adjudications contemplated under the Code. In view of the above, this Court is of the considered opinion that the distinction between '*decision*' and '*order*' is not merely a symbolic one but is of substantive consequence, and a failure to appreciate this distinction has materially contributed to the existing divergence of judicial opinion. Therefore, while addressing the conflict between the lines of authority, and in particular while framing the questions for reference to a larger Bench, it would be imperative that the larger Bench examines, in the first instance, the true scope and meaning of the expressions '*decision*' and '*order*' as used in the Code, and thereafter proceeds to determine the consequences flowing therefrom.

26. In the domain of administrative and revenue law, a substantive decision is one that finally adjudicates upon the rights,



obligations, or civil consequences affecting a party. Such a decision is taken after evaluating the facts, applying the law, and considering the evidence, and it usually results in a conclusive determination of the dispute. In contrast, a procedural or interlocutory order is passed during the course of proceedings to regulate the process, control the conduct of parties, or ensure smooth adjudication. Such orders do not finally settle the rights of parties but are necessary steps towards eventual adjudication.

27. In legal usage, especially within administrative law, courts have long recognized the difference between 'decisions' and 'orders'. The difference between 'decision' and 'order' is not a matter of mere terminology. It has important legal consequences concerning the rights of parties and the jurisdiction of revenue authorities under the Code. This distinction indicates the legislature's intention to design a revenue adjudication system that provides both legal finality and procedural flexibility. Although both decisions and orders may be subjected to appellate or revisional scrutiny—except where expressly declared final—the scope and standard of such scrutiny can vary. Procedural orders are often afforded greater immunity from interference so that the progress of proceedings is not hindered, whereas substantive decisions affecting rights are subject to more thorough judicial review.

28. The classification of various provisions of the Maharashtra Land Revenue Code, 1966 can be made into two broad categories — (i) those which result in a substantive adjudication, finally resolving the rights or liabilities of parties on merits, and (ii) those



which are procedural or interlocutory in nature, designed to regulate the manner of proceedings or facilitate adjudication without finally determining substantive entitlements. This distinction has a direct bearing on questions of maintainability of appeal, applicability of finality clauses, and exercise of supervisory or revisional jurisdiction. The Code itself employs both expressions — decision and order — at various places, and judicial exposition has shown that these terms carry distinct meanings depending on the context.

29. The following provisions may be classified as resulting in substantive adjudication:

(A) Section 100 – Mutation entries after inquiry- Under Section 100(3), after following the prescribed procedure, the revenue officer passes an order mutating the record of rights. Though such mutation does not itself create or extinguish rights, the inquiry often leads to a determination based on possession or inheritance. It may have binding effect unless challenged.

(B) Section 124 – Partition by revenue officer-Section 124 permits partition of agricultural holdings among co-sharers. The decision of the Tahsildar in this regard is a substantive order finally determining the shares and boundaries between parties.

(C) Section 135 – Record of Rights: Disputed entries - Where a dispute arises during the recording of rights, and an order is passed under Section 135D after inquiry, such an



order can be said to have the effect of substantively declaring possession or entitlement as per revenue records.

(D) Section 200 – Boundary Disputes -Orders passed under this section, especially after holding formal inquiries and map verifications, result in adjudication of boundary lines, which is a final determination affecting property rights.

(E) Section 216 – Encroachment proceedings - If the competent authority, after following the procedure under Sections 214–216, passes an order of removal of encroachment, that order is not merely procedural but finally determines the right to occupy land.

(F) Section 219 – Regularisation of unauthorised occupation- An order passed under this section, either granting or refusing regularisation, conclusively affects the rights of the occupier and therefore constitutes a substantive determination.

(G) Section 231 – Assessment of land revenue- Determination of land revenue assessment has fiscal consequences and impacts rights and liabilities of the landholder. Hence, such orders are substantive in character.

(H) Sections 246, 247, 255 – Final appellate orders - Any appellate or revisional order which confirms, modifies or reverses an original determination — after hearing the parties and applying mind — is undoubtedly a substantive adjudication.



(I) Section 258 – Review resulting in modification of rights- A review order that alters the rights previously determined is also substantive.

30. The following provisions are primarily procedural or interlocutory, not resulting in final determination of rights:

(A) Section 121 – Requisition of documents -This is a procedural tool empowering the revenue officer to call for documents. It does not decide rights.

(B) Section 127 – Procedure for inquiry- This section lays down the general manner in which revenue inquiries are to be conducted. It regulates proceedings.

(C) Section 251 – Admission of appeal after limitation- As held by this Court in multiple judgments, the order admitting an appeal by condoning delay is not a decision on merits. It is a procedural step to facilitate the hearing of appeal.

(D) Section 252 – Non-appealable procedural orders- This section bars appeal from orders of purely procedural character — such as condonation of delay, interim stay, or refusal of review.

(E) Section 255(1) – Admission or summary rejection of appeal- Whether the appellate authority admits the appeal or summarily rejects it for non-maintainability, the act is procedural. It does not decide substantive rights unless the appeal is heard and finally disposed.



(F) Section 256 – Stay orders-This section allows stay of execution of an order pending appeal. Such orders are interim and regulatory in nature.

(G) Section 257 – Calling records for revision-The act of calling for records is procedural. Only when revision is decided, it becomes substantive.

(H) Section 259 – Declaration of finality-This section is not a source of decision-making power, but a clarification of consequences. It does not itself determine rights.

Similarly, mutation proceedings are generally procedural, but where there is a contested inquiry and finding, it becomes quasi-substantive.

31. This Court is therefore of the opinion that under the Maharashtra Land Revenue Code substantive provisions are those which affect ownership, possession, liability, fiscal obligations, or boundary rights and procedural provisions are those which deal with admission of proceedings, conduct of inquiry, issuance of notices, interim orders, or mode of execution. Classification of any particular provision must be guided by its legal effect, not merely its form.

32. This conceptual distinction finds reflection in the Code's provisions.

(i) Section 247 establishes the framework for appeals and identifies appellate authorities. It states that an appeal shall lie from any decision or order passed by a revenue or survey



officer under this Code or any other law for the time being in force, to the immediate superior of the officer who passed such “decision” or “order”, unless otherwise expressly provided. This section establishes the framework for appeals and identifies appellate authorities. The section uses both terms, suggesting a potential distinction in their application.

(ii) Section 251 deals with the admission of appeals after the period of limitation has expired. The provision appears to treat the admission of an appeal as an "order" rather than a "decision."

(iii) Section 252 specifically prohibits appeals against certain "orders," notably including orders admitting appeals under Section 251. This suggests that the term "order" is used for procedural determinations.

(iv) Section 255 outlines the powers of appellate authorities, including the power to confirm, modify, or reverse the "decision or order" appealed against. The use of both terms in conjunction suggests they may have distinct meanings. Section 255 empowers appellate authorities to confirm, modify, or reverse both "decisions" and "orders," recognizing that both types of determinations may be subject to appellate review.

(v) Section 257 grants revisional powers to the State Government and certain revenue officers to call for and examine records of subordinate officers and to modify, annul, or reverse any "decision or order." Again, both terms



are used distinctively. Section 257 grants revisional powers over both "decisions" and "orders," suggesting that both are subject to higher review despite potential differences in their nature.

(vi) Section 259, which is of paramount importance, specifically addresses both "decisions" and "orders" that are expressly made final or conclusive under the Code. It states that whenever in this Code, it is provided that a decision or order shall be final or conclusive, such provision shall mean that no appeal lies from such decision or order. It clarifies that such finality means no appeal lies from such decisions or orders. Section 259 addresses finality clauses applicable to both "decisions" and "orders," indicating that both types of determinations can be given finality under the Code.

33. A plain reading of these provisions shows that the legislature has deliberately used both terms—'decision' and 'order'—in various contexts. The consistent use of the phrase "decision or order" indicates these terms are not synonymous but represent different types of determinations.

34. Moreover the Maharashtra Land Revenue Code, 1966 (MLRC) contains several provisions that use terms such as 'final', 'conclusive', and 'final and conclusive' to describe certain decisions and orders. It is therefore necessary to examine these finality clauses, particularly in the context of Sections 247, 251, 252, 255, 257, and 259, to understand their legal implications and how they affect the distinction between 'decision' and 'order'.



35. Section 259 of the MLRC is the fundamental provision regarding finality clauses, titled "Rules as to decisions or orders expressly made final". This section states:

"Whenever in this Code, it is provided that a decision or order shall be final or conclusive, such provision shall mean that no appeal lies from such decision or order."

36. This provision is crucial for understanding the legal effect of finality clauses throughout the Code. It explicitly addresses both 'decisions' and 'orders', indicating that the legislature recognized a distinction between these terms while applying similar consequences to both when declared final.

37. While Section 259 establishes that "final" or "conclusive" means no appeal lies, this does not completely insulate decisions or orders from all forms of review. Section 247 establishes the framework for appeals against decisions and orders that are not expressly made final. Section 257 grants revisional powers to the State Government and certain revenue officers to "modify, annul, or reverse any decision or order". Legislative scheme suggests that even when a decision or order is declared "final" under Section 259, it may still be subject to revision under Section 257, particularly by the State Government.

38. The Code appears to establish different gradations of finality. Regular Decisions/Orders which are subject to appeal under Section 247 and revision under Section 257. Final Decisions/Orders which are not subject to appeal (per Section 259) but may be subject to revision under Section 257. Final and



Conclusive Decisions/Orders which are given the highest degree of finality, though the State Government may still have revisional powers in limited circumstances.

39. In my opinion these finality clauses need to be interpreted to mean that finality under Section 259 bars appeals but not necessarily revision. The State Government retains ultimate revisional authority even over "final" decisions or orders. Finality clauses must be interpreted in the context of the hierarchical structure of revenue authorities. The distinction between 'decision' and 'order' remains relevant even when both are subject to finality clauses. The finality clauses in the Code create a system where both 'decisions' and 'orders' can be declared final or conclusive. Such finality primarily bars appeals rather than all forms of review. The State Government retains supervisory powers through revision even over "final" determinations. The procedural-substantive distinction between 'orders' and 'decisions' influences how finality clauses are applied in practice.

Doctrinal Concerns for Reference:

40. Meaning of “Decision” vs “Order”: A doctrinal issue underlying the reference is the interpretation of the terms “decision” and “order” within the MLRC, especially as used in the finality clause (Section 259). One line of thought is that an interlocutory order (such as condonation of delay) should not be treated as a final decision that forecloses intermediate review. The earlier decisions appeared to implicitly assume that the SDO’s act of condoning delay was not a “final decision” on rights but merely



an interim order, thus arguably outside the strict bar of Section 259. However, Section 259 by its plain text applies whenever the Code provides that a “decision or order shall be final or conclusive”, and equates that to no further appeal with only State revision allowed. In the present context, Section 252 in effect makes the SDO’s order “final” by prohibiting any appeal from it, even though it does not use the word “final” explicitly. There is room for debate whether Section 259 is triggered by Section 252’s bar (since Section 252 does not literally say “final”), or whether Section 259 only covers provisions that expressly use such terminology elsewhere in the Code. The *Sadanand/Pravin* view is that Section 252’s bar indeed invokes Section 259’s principle – treating the condonation order as final for purposes of appeal and hence revisable only by the State. In contrast, the *Ashokrao* view may be premised on treating the condonation order as an interlocutory step not falling under an express “final or conclusive” provision, thereby allowing an appeal-like revision by a subordinate authority. This divergence raises the need to clarify the scope of the words “decision or order” in Section 259 and whether they encompass an order under Section 251.

41. Scope of Finality Clause vis-à-vis Revision: The core doctrinal concern is whether a finality clause (no appeal) in the MLRC impliedly ousts all revisional jurisdiction except that of the State Government. Section 259’s mandate that it shall be lawful for the State Government “alone” to modify or reverse a final decision/order suggests an exclusivity of revisional power at the Government level. The *Balwant/Ashokrao* line, however,



effectively allowed an Additional Collector or Commissioner to exercise revision in such cases, which sits uneasily with the word “alone” in Section 259.

42. This raises a significant question: *Does Section 259 limit the revisional oversight in cases of orders made final by the Code solely to the State Government, thus barring revision by any departmental authority?* The conflicting judgments answered this differently. A larger Bench would need to squarely address whether an Additional Collector (or any revenue officer below the Government) has jurisdiction under Section 257 to revise an order against which no appeal lies, or whether only the State Government can do so. In other words, is an order “expressly made final” (here by the effect of Section 252) immune from any interference by intermediate authorities? The resolution of this issue has broad ramifications for the structure of revenue adjudication and the distribution of powers between the departmental appellate and revisional levels.

43. Distinction between Condonation and Merits – Impact on Remedies: Another subtle point of law is whether the act of condoning delay and admitting an appeal can be conceptually separated from the appeal itself for purposes of appealability. The older judgments treated the delay-condonation as a distinct decision that could be challenged without infringing the bar on appeal on the merits. *Sadanand Suroshe* rejected this separation, essentially holding that once delay is condoned, the two cannot be divorced – the appeal stands admitted and Section 252’s bar squarely applies. The larger Bench may have to consider if the



“*fine distinction*” attempted earlier (between “*condonation order*” and “*order admitting appeal*”) has any legal validity. This ties into the textual analysis of Section 252(a): it forbids an appeal from an order “*admitting an appeal ... under Section 251.*” Does this encompass the scenario where the appellate authority issues an order saying “delay is condoned and the appeal is admitted for hearing”? The *Sadanand* view is yes, it squarely does. Any contrary view would require carving out a nuance that perhaps the appeal isn’t “admitted” until the Section 255(2) process (notice for hearing) is undertaken – a nuance that was propounded in *Balwant/Kanchanbai* but found to be unpersuasive later. Clarification on this doctrinal point will eliminate confusion as to whether two separate remedies (one against condonation, one against final appellate decision) exist, or a party must await the final outcome and then challenge the whole matter in one go (via revision to State if necessary).

Reasons for reconsideration of *Pravin Gajanan Thakur*:

44. Section 252 bars an appeal from certain orders specified in clauses (a), (b), and (c). However, the judgment in *Pravin Gajanan Thakur* appears to have read this bar as synonymous with the order being “final and conclusive,” thereby impliedly ousting revisional jurisdiction under Section 257. This reasoning requires reconsideration for the following reasons:

- (i) The construction adopted in *Pravin Gajanan Thakur* treats the act of “admitting” an appeal under Section 251 as a purely administrative act, and not as a judicial order.



However, Section 255 and the scheme of Chapter XIII indicate that admission of an appeal is a stage in a quasi-judicial proceeding, particularly where limitation is contested and condonation of delay is required. Therefore, the view that an order admitting an appeal after condoning delay is not amenable to revisional jurisdiction under Section 257 is arguably flawed and warrants reconsideration.

(ii) Section 252 of the Code merely bars an appeal against certain orders mentioned in clauses (a), (b), and (c), but it does not use the expressions "final" or "conclusive". In contrast, several other sections in the Code explicitly declare the finality or conclusiveness of orders (e.g., Sections 21(5), 137(4)(b), 162(2), 175, 218(5), 270(2), etc.).

(ii) Section 259 clarifies that an order or decision can be said to be final and conclusive only if the Code expressly so provides. Therefore, the absence of such words in Section 252 indicates that the legislative intent was not to render orders under Section 252 final or beyond the purview of revisional jurisdiction under Section 257(1). The *Pravin Gajanan Thakur* judgment arguably overlooked this statutory structure and wrongly treated the bar on appeal as synonymous with finality or conclusiveness, which would unduly restrict revisional jurisdiction. By equating the absence of appellate remedy under Section 252 with the finality of the order, *Pravin Gajanan Thakur* effectively bypasses the carefully constructed legislative scheme reflected in Section 259.



(iv) The Code envisages concurrent revisional powers under Section 257(1), exercisable by the State Government and revenue officers. This jurisdiction is not conditioned upon whether the order under challenge is appealable. Rather, it exists independently and in addition to appellate powers. Section 257 uses broad expressions: "to satisfy itself as to the legality or propriety of any such order or as to the regularity of the proceedings." The 2005 amendment to Section 257(4) reinforces the independent and concurrent nature of these revisional powers. The amendment to Section 257(4), which distinguishes between State Government revisional powers and those of revenue officers, clarifies that revenue officers also possess independent revisional jurisdiction. This further strengthens the argument that revisional power under Section 257 is not ousted unless expressly excluded. *Pravin Gajanan Thakur* fails to adequately appreciate this distinction and instead reads implied limitations into the scheme of revisional powers. The interpretation in *Pravin Gajanan Thakur* virtually nullifies the supervisory function under Section 257, thereby defeating the legislative intent.

(v) The term "admit" in Section 251 cannot be read as a purely administrative act. The exercise of admitting an appeal or condoning delay has significant judicial content, especially where limitation is contested. *Pravin Gajanan Thakur* seems to hold that an order of condonation of delay or admission of appeal is not susceptible to revision.



However, the power under Section 257 includes examining both *orders* and *the propriety of the proceedings*. Therefore, admission orders, including condonation of delay, would fall within its ambit.

(vi) Section 259 is not a source of power but a restrictive provision to prevent review or revision only where the Code specifically declares an order or decision to be *final or conclusive*. It must be interpreted strictly. As correctly argued, the section is clarificatory and cannot be invoked to curtail powers under Section 257(1) unless such curtailment is specifically provided. Therefore, *Pravin Gajanan Thakur's* use of Section 259 as a bar on revision lacks textual support. Section 259 is essentially clarificatory and not a disabling or ousting provision. It merely reaffirms that where the Code declares a decision or order to be final or conclusive, such order shall not be called into question in any Court. But it does not curtail the revisional jurisdiction of revenue officers or the State Government under Section 257(1), unless such jurisdiction is expressly excluded. Reading Section 259 as disabling revisional powers, as held in *Pravin Gajanan Thakur*, reverses the legislative intent and negates the concurrent revisional jurisdiction under Section 257(1) which is preserved even after the 2005 amendment.

(vii) The judgment in *Pravin Gajanan Thakur*, though detailed in other respects, has skipped to consider the jurisprudential difference between the expressions 'decision' and 'order' as employed under the Code, and this oversight



calls for an authoritative pronouncement by a larger Bench.

45. The questions involved are of significant import not only for the parties at hand but for revenue litigation at large. The balance between allowing relief in deserving delayed cases and protecting parties from stale claims hinges on how these provisions are construed. A large number of mutation disputes, land title appeals, and other revenue cases see delays in filing appeals at the taluka or district level; the availability or unavailability of an intermediate challenge to condonation decisions affects all such cases. Moreover, the allocation of revisional power between the Department and the State Government has institutional implications. Resolving whether the Additional Collector/Commissioner has a say, or the power lies solely with Mantralaya (State Government), will streamline the process and avoid forum shopping or parallel attempts. Consistency in this area will ensure that revenue officers apply the MLRC uniformly when dealing with appeals and revisions.

46. As a constitutional court, the High Court has a duty to maintain coherence in its jurisprudence. Where two or more conflicting lines of authority emerge, a larger Bench reference is the time-honored mechanism to restore singularity of voice. It is noteworthy that one of the learned Judges (in *Pravin G. Thakur*) explicitly remarked on the necessity of clarity “so as to avoid confusion”. Indeed, it would be prudent at this juncture for a larger Bench to examine the issue holistically. A Larger Bench decision would carry the weight of authority to bind all coordinate Benches in the future, thereby stabilizing the law.



47. The Appellate Side Rules of the Bombay High Court expressly contemplate such a reference in situations of conflicting decisions. Chapter I, Rule 7 and Rule 8 empower this Court to refer questions to a larger Bench when a Bench of the High Court feels it cannot follow an earlier decision of a coordinate Bench or sees conflicting precedents on a point of law. In the present case, the requirements for reference are met: there are at least two sets of decisions of equal authority pulling in opposite directions on the interpretation of the MLRC provisions in question. In view of this clear divergence, it is both permissible and necessary to invoke the reference mechanism. This Bench is of the considered opinion that a larger Bench as the Hon'ble Chief Justice may deem appropriate should be constituted to settle the questions.

48. Questions Framed for the Larger Bench

In light of the above discussion, the following questions of law are referred for determination by a larger Bench of this Court:

Q1. Whether an order passed by an appellate authority under Section 251 of the Maharashtra Land Revenue Code, 1966, admitting an appeal after condoning the delay, constitutes a '*decision*' or an '*order*' for the purposes of Section 252 read with Section 259 of the Code?

Q2. Whether the expressions '*decision*' and '*order*' as used in Sections 247, 251, 252, 255, 257, and 259 of the Code are distinct in meaning and effect, and if so, what are the consequences of such distinction for maintainability of appeals and revisions under the Code?



Q3. Does the finality attached to certain orders by Section 252 (read with Section 259) impliedly bar the revisional jurisdiction of all authorities except the State Government?

In other words, when the MLRC says no appeal lies from a given order (here, an order admitting an appeal), is an Additional Collector or Commissioner precluded from exercising revision under Section 257(1) in respect of that order, leaving Section 257(4) (State Government's revision) as the sole revisional remedy?

Q4. What is the precise meaning of the term "order admitting an appeal under Section 251" as used in Section 252(a), and does it encompass the act of condoning delay and directing the appeal to be heard on merits? Arising from this, the larger Bench may clarify whether any distinction can be made between an order that merely condones delay and an order that formally "admits" the appeal for hearing, or whether they are one and the same for the purposes of Section 252's bar.

Q5. Whether the judgments of this Court in Balwant Narayan Thale (2017), Kanchanbai B. Sukalkar (2019) and Ashokrao G. Ghatge (2024) on one hand, and Sadanand T. Suroshe (2024) and Pravin G. Thakur (2025) on the other, can be reconciled in light of the statutory scheme of the MLRC; if not, which of these views lays down the correct law?



Q.6. What is the scope of the bar under Section 252(a) of the Maharashtra Land Revenue Code, 1966 on filing an appeal against an order condoning delay and admitting an appeal under Section 251? In particular, does Section 252 absolutely prohibit a further appeal or challenge before any departmental authority (such as an Additional Collector or Commissioner) against an order of the first appellate authority admitting a time-barred appeal?

Q.7. Upon an order of the appellate authority condoning delay and admitting an appeal (i.e. an order under Section 251) – what is the correct remedy available to an aggrieved party under the MLRC? More specifically:

(a) Is the aggrieved party confined to approaching the State Government in revision under Section 257, by virtue of Section 259's finality clause? Or,

(b) Can the aggrieved party seek a revision or second appeal before an intermediate revenue officer (such as the Collector/Additional Commissioner) despite the bar on appeals? This question may require clarification whether the phrase "it shall be lawful to the State Government alone" in Section 259 means that only the State Government can exercise revisional powers in such a case, to the exclusion of any other authority.

Q.8. Whether the act of "admission" of an appeal under Section 251 is merely administrative or has quasi-judicial implications, especially in light of the appellate procedure



under Section 255?;

Q.9. Whether Section 259 is a source of jurisdiction or merely a clarificatory provision which does not curtail the revisional jurisdiction otherwise vested under Section 257(1).

49. For the reasons aforesaid, it is evident that an authoritative decision is required to settle the law on the points enumerated. In exercise of the powers under Chapter I, Rule 8 of the Bombay High Court Appellate Side Rules, 1960 (read with Rule 7 thereof and Clause 36 of the Letters Patent), the Registry is directed to place the papers of this case before the Hon'ble the Chief Justice. The Hon'ble Chief Justice may consider constituting appropriate larger Bench to hear and decide the questions framed in paragraph 48 above. The entire case, along with the formulated questions, is referred to the larger Bench for authoritative determination.

50. All parties shall await the outcome of the reference.

51. Ad-interim relief granted earlier shall remain in force until further orders. However, suit may be proceeded.

(AMIT BORKAR, J.)