

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. 8484 OF 2024
(Arising out of SLP (C) No. 15380 of 2013)**

ALPHONSE ANTONY LOBO (DEAD) BY LRS. APPELLANT(S)

VERSUS

**ALEXANDER PAIS (DEAD) BY LRS. & RESPONDENT(S)
ORS.**

O R D E R

Leave granted.

In our opinion, the High Court, *vide* impugned judgment dated 26.09.2012, has erred in accepting the *intra-court* appeal filed by the deceased respondent no. 1, Alexander Pais and 8 others, being legal representatives of Dennis Pais.

The aforesaid respondents, by filing Writ Petition No. 50106 of 2004, had challenged the Land Tribunal order dated 28.10.1978, by which rights in the land¹ had been granted to late Magdalin Dais. The writ petition was dismissed *vide* order dated 07.04.2011

¹ Following lands in Pachchandi village, Mangalore Taluk:

1	Survey	11	Extent
1111	87-382	1	0-00

on the ground that there was delay of twenty-five years and the explanation for delay was unsatisfactory.

The impugned judgment, as noticed above, allowed the *intra-court* appeal, setting aside the order dated 28.10.1978 on the ground that by another order dated 12.01.1979 the Land Tribunal had corrected the survey number and area of the land in the order dated 28.10.1978. The 'correction' was made in respect of survey no. 87-3B3, increasing the area from 47 cents to 82 cents.

Division Bench observes that there was nothing on record to show that late Dennis Pais, the original landlord, was aware of the survey report, and area of 82 cents in survey no. 87-3B3 was conveyed.

Learned counsel for the respondents submits that the order dated 12.01.1979 was passed behind the back, without notice to late Dennis Pais. There is a difference between the survey number and the area in the order dated 28.10.1978 and the order dated 12.01.1979.

In our opinion, the respondents herein should not be allowed to challenge the order dated 28.10.1978 passed by the Land Tribunal after twenty-five years, and after the demise of the original landlord, late Dennis Pais in the year 2001. No doubt, there is a difference in the survey number, as also the area, but to accept that late Dennis Pais would have remained quiet in case the orders of the Land Tribunal dated 28.10.1978 and 12.01.1979 were factually incorrect, is difficult to accept. Interestingly, in the writ petition filed by the legal representatives of the respondents, it is recorded that the land in question was fallow and was

uncultivated. Respondents herein do not rely on the revenue entries in their favour. Contentions raised are factual, and evidence and material, with passage of time, is difficult, if not impossible, to ascertain, collate and verify. Thus, learned Single Judge was right in dismissing the writ petition on the ground of delay and laches. Respondents should not be permitted to move the Court and raise these pleas after twenty-five years. Lastly, the order dated 12.01.1979 was not independently challenged by the respondents.

Accordingly, we allow the present appeal and set aside the impugned judgment dated 26.09.2012. The effect thereof will be that the orders dated 28.10.1978 and 12.01.1979 will govern the parties.

Pending application(s), if any, shall stand disposed of.

.....J.
(SANJIV KHANNA)

.....J.
(R. MAHADEVAN)

NEW DELHI;
AUGUST 06, 2024.

ITEM NO.53

COURT NO.2

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G SCivil Appeal No(s). 8484/2024

ALPHONSE ANTONY LOBO (DEAD) BY LRS.

Appellant(s)

VERSUS

ALEXANDER PAIS (DEAD) BY LRS. & ORS.

Respondent(s)

Date : 06-08-2024 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE R. MAHADEVAN

For Appellant(s) Mr. Shibu Devasia Olickal, AOR

Mr. Romy Chacko, AOR
Mr. Sachin Singh Dalal, Adv.
Ms. Himani Sharma, Adv.
Mr. Akshat Singh, Adv.

For Respondent(s) Mr. H. Chandra Sekhar, AOR

Mr. V. N. Raghupathy, AOR
Mr. N K. Verma, Adv.
Ms. Anjana Chandrashekar, AORUPON hearing the counsel, the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(BABITA PANDEY)
COURT MASTER (SH)(R.S. NARAYANAN)
ASSISTANT REGISTRAR

(Signed order is placed on the file)