

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

REVIEW APPLICATION (CIVIL) NO. 217 OF 2014  
IN  
WRIT PETITION NO. 9150 OF 2013

SANJAY MANOHAR RANE  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Applicant : Shri Sapkal V.D. h/f Shri Yawalkar S.B.  
AGP for Respondents : Shri Korde D.R.  
Advocate for Respondents : Shri Patil P.R.

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CORAM : RAVINDRA V. GHUGE, J.  
Dated: February 13, 2015  
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PER COURT :-

1. Contention of the petitioner is that paragraph 11 of the order under review, dated 15.4.2014, passed in Writ Petition No.9150 of 2014 needs to be reviewed or modified as it suffers from errors apparent on face of the record.

2. The grievance of the petitioner is that Resolution dated 17.3.2008 had been subject matter of challenge at the behest of the Review Petitioner. Eventually, the same came to be interfered with by the State authority on 4.4.2013. As such, the Municipal Corporation has no reason to either revise the Resolution or to act in pursuance thereto.

3. It is submitted that the Resolution dated 26.12.2008 does not provide for removing properties or demolishing them for road widening purpose

which has been the subject matter of proceedings upto Writ Petition No.9150 of 2013. However, the observation made by this Court in paragraph No.11 of the order under review has been mis-used and misinterpreted as a being a permission granted by this Court for proceeding with removal of properties for road widening, by the Municipal Corporation.

4. In so far as a challenge to the locus of the petitioner in filing this Review Petition is concerned, it is pointed out that the Review Petitioner was respondent No.3 in Writ Petition No.9150 of 2013 and as such, he has the *locus* to seek review of the order, passed in the said petition. It is further submitted that the petitioner is a public spirited person and in effect, has taken up the cause of several persons, who are situated on the concerned road, which is subjected to the widening programme by the Municipal Corporation.

5. The petitioner further submits that the said Resolution dated 26.12.2008, has been given a different dimension despite it not providing for removal of such constructions / properties, which fall within the road widening plan. It is, however, admitted that the petitioner himself has no property situated on the said road, which is likely to be affected by the road widening plan.

6. The learned Advocate for the Municipal Corporation has opposed the petition, primarily, on the ground that the petitioner has no *locus standi* to seek review of the order, in the facts and circumstances set out in the

review petition. He relies upon the judgment of the Apex Court in the case of Gopabandhu Biswal Vs. Krishna Chandra Mohanty and others [(1998) 4 SCC 447].

7. It is further pointed out, in light of paragraphs 7 and 13 of the Gopabandhu judgment (supra), that unless a person is aggrieved by the order under review, he cannot invoke Order XLVII Rule 1 of the CPC.

8. Paragraphs 7 and 13 of the judgment of Gopabandhu (supra) are as under:-

*"7. A civil court's power to review its own decisions under the CPC is contained in Order 47 Rule 1. Order 47 Rule 1 provides as follows:*

*"1. Application for review of judgment.--(1) Any person considering himself aggrieved--*

*(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,*

*(b) by a decree or order from which no appeal is allowed, or*

*(c) by a decision on reference from a Court of Small Causes,*

*and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the*

*record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the court which passed the decree or made the order.*

*(2)\* \* \**

*"13. It is difficult to include the applicants in the review applications in the category of "persons aggrieved". The main applicant, i.e., the present appellant Biswal had joined as party respondent all those persons who had superseded him for selection to the Indian Police Service since they would be persons affected in case he succeeded in his application. The Tribunal has directed that Biswal be considered for promotion between 1977 and 1980 and not thereafter. During this period, the two applicants in Review Application No. 16 of 1993 were nowhere within the zone of consideration for promotion to IPS. One of the applicants joined the police service only in 1974 and was not eligible for further promotion till 1982. The other applicant, though eligible for promotion, was on account of his rank in the seniority list, not within the zone of consideration at any time prior to 5-11-1980. As a matter of fact the two applicants in Review Application No. 16 of 1993 were selected for promotion to IPS only in 1993 when they were included in the select list of 1993. Therefore, they could not have been made parties in TA No. 1 of 1989. At that point of time, these applicants had only a chance of promotion in future. This does not confer any legal right on these applicants and they cannot be considered as parties aggrieved by the impugned judgment. However leniently one may construe the term "party aggrieved", a person not directly affected cannot be so considered. Otherwise for years to come, every person who becomes eligible for promotion will be considered a "party aggrieved" when the Tribunal interprets any service rule such as in the present case, Only persons who are*

*directly and immediately affected by the impugned order can be considered as "parties aggrieved" under Section 22(3)(f) read with Order 47 Rule 1."*

9. It is further submitted that the road widening programme is in its final stages. The petitioner, despite not being the owner or title holder of any property, inasmuch as he having no interest in any property, affected by the road widening, has created a bottle-neck and as such, a public project is being unnecessarily hindered.

10. It is further submitted that the review petitioner had challenged the Resolution dated 17.3.2008. It was set aside by the State Government on 4.4.2013. Impugned order dated 4.4.2013 as was questioned in Writ Petition No.9150 of 2013, that the Municipal Corporation had to implead him as respondent No.3.

11. It is then pointed out that the report regarding the road widening, dated 30.12.2008, clearly evidences that all the aggrieved persons have been heard and their grievances have been redressed. There were three property owners and seven tenants, who were entitled to compensation on account of the acquisition for road widening. The note below the report indicates that the petitioner is in no way affected by the said road widening. It is, therefore, submitted that no grounds for review have been made out by the petitioner.

12. Having considered the submissions of the learned Advocates and having gone through the petition paper book, the issue that needs consideration is as to what is the error, apparent on the face of the record so as to cause a review as regards paragraph No.11 of the order passed by this Court.

13. Resolution dated 26.12.2008 was apparently not subjected to any challenge as on 15.4.2014, when this Court passed the order under review. Respondent No.3 / petitioner herein was heard while passing the said order. The petitioner, who claims to be a public spirited person, has no right, title or interest in the property, affected by the road widening plan. The petitioner has been unable to point out any injury or prejudice that can be said to be caused to him on account of the observations in paragraph No.11, so as to term the said paragraph as being an error apparent on the face of record. Similarly, in the light of the ratio laid down by the Apex Court in the Gopabandhu judgment (supra), the petitioner cannot be said to be directly affected by paragraph No.11 of the order under review and is, therefore, not an aggrieved person.

14. In the light of the above, I do not find that the petitioner has made out a case of an error, apparent on the face of the record, inasmuch as, a legal injury having been caused to him, on account of the observations made by this Court in paragraph 11 of the order under review.

15. I, therefore, do not find any merit in the review application and the same is, therefore, rejected.

( RAVINDRA V. GHUGE, J. )

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