

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

**REVIEW PETITION (STAMP) NO.18158 OF 2016
IN
WRIT PETITION NO.3837 OF 2016**

Shri. Bhadresh Gangaji Shah

..Petitioner

Versus

**The Additional Collector,
Thane and others**

..Respondents

**Shri. N. V. Walawalkar, Senior Advocate i/by Shri. Suresh M. Sabrad
for the Petitioner.**

Mrs. Kirti R. Kulkarni, AGP for the Respondent Nos.1 to 4.

Shri. P. N. Joshi i/by Mrs. V. R. Raje for the Respondent Nos.5 to 13.

CORAM : R. M. SAVANT, J.

DATE : 19th OCTOBER, 2016

PC.

1 By the above Review Petition, the Petitioner is seeking review of the order dated 28.04.2016 passed in the above Writ Petition. By the said order, the above Petition came to be dismissed and resultantly, the order dated 19.03.2016 passed by the Principal Secretary and Officer on Special Duty (Appeals and Revisions), Government of Maharashtra setting aside the order dated 09.01.2014 passed by the same officer directing the renewal of quarrying leases granted in old Survey No.12 present Gat No.102 situated at village Virathan Budruk came to be confirmed.

2 It seems that against the said order dated 28.04.2016 passed by this Court, the Petitioner carried the matter to the Apex Court by way of SLP (Civil) No.15055 of 2016. It seems that the Petitioner had applied for withdrawal of the SLP so as to file a Review Petition before this Court. The Apex Court accordingly allowed the Petitioner to withdraw the said Special Leave Petition which is recorded in the order dated 01.07.2016 passed by the Apex Court. The Petitioner thereafter has filed the instant Review Petition.

3 By an order passed today in Civil Application No.177 of 2016, the delay of 30 days in filing the Review Petition has been condoned. With the consent of the Learned Counsel for the parties, the Review Petition is taken up for hearing.

4 At this stage, it would be relevant to note that the genesis of the Review Application which was filed by the Respondent Nos.5 to 13 in which the order dated 19.03.2016 came to be passed lies in their grievance as regards the quarrying activities being undertaken in the said Survey No.12, present Gat No.102, situated at village Virathan Budruk. It was the case of the said Respondents who are villagers of the said village Virathan Budruk that the said quarrying activities are having a deleterious effect on the environment as also the life of the villagers. It

seems that the Sarpanch of the said village Virathan Budruk had attended the “Lokshahi Din” held by the Hon'ble Chief Minister of the State on 11.05.2015. The Sarpanch of the said village ventilated the grievances of the said villagers as regards the said quarrying activities. The Sarpanch was accordingly advised to file a Review Application seeking Review of the order dated 09.01.2014 passed by the Principal Secretary and Officer on Special Duty (Appeals and Revisions). As a consequence of which, the Review Application was filed by the Respondent Nos.5 to 13 who as stated above are the villagers of the said village Virathan Budruk. As indicated above, the said Review Application came to be allowed by the order dated 19.03.2016 and resultantly, the order dated 09.01.2014 passed by the same Officer came to be reviewed and set aside.

5 The principal ground on which Review is sought of the order dated 28.04.2016 passed by this Court, is the ground, as to whether the Principal Secretary and Officer on Special Duty (Appeals and Revisions), Government of Maharashtra had the authority to entertain the Review Application. It was the contention of the Learned Senior Counsel Shri. N. V. Walawalkar appearing on behalf of the Review Petitioner that in terms of the Rules of Business framed under Article 166 of the Constitution of India and especially Rule 15 thereof read with the Standing Orders, the power to entertain a Revision Application is of the State Government to

be exercised through the Cabinet Minister. It was the submission of Shri. N. V. Walawalkar that though in respect of the original order dated 09.01.2014 passed in the Revision Application filed by the Petitioner, the said power was delegated to the Principal Secretary and Officer on Special Duty (Appeals and Revisions) Government of Maharashtra. It was the submission of Shri. N. V. Walawalkar that unless there was re-delegation again to the Principal Secretary and Officer on Special Duty (Appeals and Revisions) Government of Maharashtra, the said officer could not have entertained the Review Application against the said order dated 09.01.2014 filed by the Respondent Nos.5 to 13. In support of the said contention reliance is sought to be placed on the judgment of a Learned Single Judge of this Court reported in 2003(4) ALL MR 252 in the matter of Sambappa Babappa Teli Vs. State of Maharashtra and others.

6 In my view, it is not possible to accept the contention of the Learned Senior Counsel appearing on behalf of the Review Petitioner. In the instant case, as indicated above, the power to entertain the Revision Application filed by the Petitioner was delegated to the Principal Secretary and Officer on Special Duty (Appeals and Revisions), Government of Maharashtra by the Hon'ble Minister, pursuant to which the Revision Application filed by the Petitioner was decided by order

dated 09.01.2014 and a direction came to be issued that the lease for quarrying granted to the Petitioner be renewed. Since Review was sought of the said order dated 09.01.2014, it would obviously have to lie before the same Authority i.e. the Principal Secretary and Officer on Special Duty (Appeals and Revisions) and therefore the Authority was entitled to entertain the Review Application.

7 In my view, there was no necessity for going through the technicality of the Review Application being assigned to the Principal Secretary and Officer on Special Duty (Appeals and Revisions), Government of Maharashtra in view of the fact that Review was sought of the order dated 09.01.2014 passed by the same officer. In so far as the judgment of the Learned Single Judge in *Sambappa Babappa Teli's* case (*supra*) is concerned, though the said judgment concerns Rules of Business, there is nothing in the said judgment which would aid the Petitioner in contending that the Principal Secretary and Officer on Special Duty did not have the authority to decide the Review Application. The said judgment in fact holds that under Section 257 of the Maharashtra Land Revenue Code, in so far as the Revisions are concerned, in terms of the Rule 15 read with the Standing Orders, they are to be heard by the Cabinet Minister unless power is delegated to the Principal Secretary and Officer on Special Duty (Appeals and Revisions),

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Government of Maharashtra, which in fact was done in the instant case, as a result of which the Principal Secretary and Officer on Special Duty had heard the Revision Application filed by the Petitioner and passed the order dated 09.01.2014. In my view, there is no merit in the ground on which Review is sought of the order dated 28.04.2016 passed in the above Writ Petition. No case for Review under any of the eventualities mentioned in Order 47 of the CPC is made out. The Review Petition is accordingly dismissed.

[R.M.SAVANT, J]