

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**REVIEW APPLICATION (CIVIL) NO. 36 of 2018.
IN
WRIT PETITION NO. 7944/2016.**

Airports Authority of India
Through Its Member and ... Applicants.
another.

VERSUS

Anilkumar Vishwanathsingh Thakur ... Respondents.
and others.

...

Mr. Nitin S. Choudhari, Advocate for Applicants.
Mr. V.D. Gunale, Advocate for respondents No.1.
Mrs. A.V.Gondhalekar, Addl.G.P.for respondent No.2 & 3.

**CORAM : S. V. GANGAPURWALA &
K. L. WADANE, JJ.**

DATE : 9th March, 2018.

ORDER:

1. Mr. Chaudhari the learned advocate for the review applicants submits that this Court had upheld the judgment of the Scrutiny Committee invalidating the tribe claim of the petitioner. However, in view of the judgment of the full bench of this Court in case of Arun Vishwanath Sonone V/s. State of Maharashtra & Ors. reported in 2015(1) ALL MR 799 (F.B.) have granted service protection to the respondent. Learned counsel submits that the Hon'ble Apex Court, in a case of

Chairman and Managing Director FCI & Oth. v/s. Jagdish Balaram Bahira, reported in 2017 SCC On-line SC 715 has set aside the judgment of full bench of this Court in case of **Arun Sonone (supra)**. The Learned counsel submits that the present review applicants have approached the Apex Court against the judgment of this Court under review and the Hon'ble Apex Court gave liberty to the applicant to file review, in view of the judgment of the Apex Court in case of **Chairman and Management, FCI (Supra)**.

2. Mr. Gunale, the learned counsel for the respondent No. 1 submits that the respondents proceeded on the basis of the judgment of full bench of this Court in case of **Arun Sonone (supra)**, as such, had not seriously agitated about the invalidation of the tribe claim. The learned counsel submits that only because the Apex Court has subsequently set aside the judgment of the full bench, after the judgment passed by this Court under review, would not a ground for review.

3. We have considered the submissions. We had considered the judgment of the Scrutiny Committee invalidating the tribe claim of the petitioner on merits and upheld that no error has been committed by

the Scrutiny Committee while invalidating the tribe claim. However, in view of the judgment of the full bench of this Court in case of **Arun Sonone(supra)** had protected the service of the petitioner.

4. The review applicants have approached the Apex Court in Diary No. 16240/2017. The Apex Court passed the following order.

"Heard.

In view of the judgment of this Court on 6th July, 2017 in Civil Appeal No. 8928 of 2015 etc., Chairman and Managing Director, FCI, and Ors. V. Jagdish Balaram Bahira and Ors. (2017) 7 SCALE 395, the petitioners are at liberty to move the High Court for review. We make it clear that the review may not be dismissed on the ground that the judgment of this Court is subsequent to the order passed by the High Court.

The special leave petition is accordingly disposed of.

Pending applications, if any, shall also stand disposed of."

5. The Apex Court has made it clear that the review that would be filed by the present applicants should not be dismissed on the ground that the judgment of the Apex Court is subsequent to the order passed by this Court. In view of the said observations of the Apex Court, in the present matter it will not be possible for us to accept the contention of Mr. Gunale, the

learned advocate for the respondents.

6. In view of the judgment of the Apex Court in case of **Chairman and Management, FCI (Supra)**, the order passed by this court under review dated 12.01.2017 is recalled and Writ Petition No. 7944/2016 stands dismissed. The order granting service protection to the original writ petitioner stands set aside.

7. At this stage Mr. Gunale, the learned counsel for respondent No.1 seeks stay of this Court, so as to enable him to approach the Apex Court.

8. The said request is opposed by Mr. Chaudhari, learned counsel for the review applicants. However, considering the fact that the respondent No.1 is in service, we stay the operation of this order for a period of four weeks. Needless to state, on lapse of four weeks, the protection granted shall come to an end.

9. Review Application is accordingly allowed and disposed of.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

mkd/-