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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
REVIEW PETITION NO.4 OF 2017
IN
PUBLIC INTEREST LITIGATION NO.27 OF 2017**

Prakash Agrawal ... Petitioner

Vs.

Nahar Amrit Shakti – R 2 Sector

Residents Welfare Association and Ors. ... Respondents

Mr. Madhav Jamdar for the Petitioner in PIL/125/2014.

Mr. Prakash Agrawal Petitioner in person.

Ms. Jyoti Chavan, AGP for Respondent – State.

Mr. Aspi Chinoy, Dr. Milind Sathe, Senior Advocates, Mr. Parimal K. Shroff, Mr. D.U. Deokar, Mr. Pinakir Modi & Mr. D. Parikh i/by Parimal K. Shroff & Co.

Ms. K.H. Mastakar for Respondent Nos.19 and 20..

Ms. K.H. Mastakar for Respondent – BMC.

**CORAM : A.S. OKA &
N. M. JAMDAR, JJ.**

DATE : 2nd FEBRUARY, 2018

PC.

1 One of the contentions of the petitioner is that his Chamber Summons which was ordered to be treated as PIL (PIL No.27 of 2017) has not been dealt with on merits while passing the order sought to be reviewed. The Chamber Summons filed by the review petitioner was

ordered to be treated as PIL and was numbered as PIL No.27 of 2017. The learned Senior Counsel appearing for the Respondent Nos.19 and 20 (developers) states that even if a fresh PIL is filed by the petitioner which is otherwise maintainable, the said respondents will not raise a ground of bar of principles analogous to *res judicata* on the basis of the disposal of PIL No.27 of 2017.

2 By the order under review, extension of time was granted to the original Respondent No.10 to comply with the final order passed in PIL No.125 of 2014. The extension has been granted for a period of nine months. The Committee consisting of Court Receiver, High Court, Mumbai, M/s.Shashank Mehendale and Associates has been constituted under the Chairmanship of the Member Secretary, Maharashtra Legal Services Authority. The Committee has been entrusted with the responsibility of supervising the work carried out by the Respondent No.10 in terms of clause (i) of paragraph 16 of the order dated 27th September, 2017. By the order sought to be reviewed, PIL No.27 of 2017 was disposed of without issuing any direction thereon. We find that no reasons have been recorded for disposing of PIL No.27 of 2017. As the said PIL is not disposed of on merits, a liberty deserves to be granted to the review petitioner to file a fresh PIL.

3 As far as the first part of the order is concerned, it grants extension of time to comply with the original order in PIL No.125 of 2014. The petitioner has not made any grievance about the original order. Therefore, in review, no interference is called for with that part of the order.

4 As far as the disposal of PIL is concerned, as we are granting liberty to the petitioner to file a fresh PIL in the light of the observations made earlier, it is not necessary to restore PIL No.27 of 2017.

5 Accordingly, we pass the following order :-

ORDER

- (i) Prayer for review of directions contained in paragraph 16 of the order dated 27th September, 2017 is not entertained;
- (ii) Notwithstanding what is observed in paragraph 17 of the order dated 27th September, 2017, it will be open for the review petitioners to file a fresh PIL subject to all objections which may be raised by the respondents to the said PIL. However, objection based on the disposal of PIL No.27 of 2017 will not remain open;

(iii) The Review Petition is disposed of on above terms.

(N. M. JAMDAR, J)

(A.S. OKA, J)