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

**CIVIL APPLICATION NO.1047 OF 2016
IN/WITH
REVIEW APPLICATION (ST.) NO.1135 OF 2016
IN
WRIT PETITION NO.575 OF 2015**

Deorao S/o Nagoba Choudante

..APPLICANT

VERSUS

The State of Maharashtra & Ors.

..RESPONDENTS

Mr G.G. Suryawanshi, Advocate for applicant;
Mrs M.A. Deshpande, Advocate for respondents - State

**CORAM : PRASANNA B. VARALE
AND
ANIL S. KILOR, JJ.**

DATE : 26th November, 2019

ORAL ORDER:

This is an application seeking condonation of delay caused in filing review application.

2. For the reasons stated in the application, application is allowed and delay of 143 days caused in filing the review application is condoned.

3. The application seeking review/recall is taken up for hearing/disposal by consent of the parties.

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4. The only ground pressed in the review application is, failure of the Counsel to submit before this Court that the review applicant was in possession of the land and had submitted his application for regularisation to the competent authority. Firstly, the ground submitted before this Court is clearly beyond the settled scope of entertaining the review application. It can safely be stated that the ground raised is nothing but failure of the party to provide instructions to the Counsel. On perusal of the record, we could further find that even this ground is of no help to the petitioner. Writ Petition No.575 of 2015 was filed on behalf of the Village Panchayat, Rajewadi through its Sarpanch with a prayer, wherein the directions were sought for removal of the encroachment on Government land to the extent of 4.20 Hectors out of total 4.44 Hectors of Gut No.7 of village Rajewadi, Tq. Mukhed, Dist. Nanded.

5. Notice was issued by this Court to the respondents on 21st January, 2015. Though respondent Nos.9 to 18 were being represented through learned Counsel and though the present review applicant was respondent No.8, no attempt was made to contest the petition either on facts or on merits by filing appropriate affidavit-in-reply on behalf of the respondents. On issuance of notice, a detailed reply was filed on behalf of the State authorities. A detailed report of an inquiry conducted through the Tahsildar was placed on record. It may not be

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necessary to refer to the report in detail, suffice it to say, specific reference to the present review applicant and his status. The report clearly states that the present review applicant is one of the encroachers and though the applicant was submitted to the District Collector for regularisation of the encroachment, the District Collector, Nanded, in view of the Government Resolution dated 12th July, 2011, rejected the representation by an order dated 23rd November, 2011 and the request for regularisation was turned down.

6. Learned Counsel for the review applicant vehemently submitted that the review applicant filed writ petition challenging the order of the authority, rejecting the representation and that writ petition was filed in this Court on 6th March, 2015. He also submitted that apart from this writ petition, there was other proceedings before the authorities. Assuming the fact of filing writ petition or the other proceedings as submitted by learned Counsel for the review applicant, that by itself cannot be a ground for this Court to expand the scope of review application. If the proceedings were initiated by the review applicant who was party to the earlier petition, nothing prevented him to take appropriate steps and submit this fact situation before the Court during the pendency of Writ Petition No.575 of 2015. The review applicant, who was enjoying the pendency of the petition leisurely, now cannot blame anybody else than he himself for submitting before this Court

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the pendency of proceedings. The fact of filing writ petition was clearly and completely within the knowledge of the review applicant and inspite of this knowledge, if the review applicant had chosen to permit the petition to be disposed of, then bringing these facts on record, he should blame himself and none else. The law certainly helps to those, who are vigilant and not to those, who are sleeping over only their Counsel's approach and then approaching this Court on an opportune time of their choice to seek review of the order of this Court.

7. Thus, in our opinion, the review application is thoroughly meritless and deserves to be dismissed and accordingly the same is dismissed.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)

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