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

REVIEW APPLICATION NO.171 OF 2019

**BAPUSAHEB NAMDEO THETE
VERSUS
THE STATE OF MAHARASHTRA AND ORS**

...
**Adv.Chaitanya Dharurkar h/f Vinaya Dharurkar for applicant
Adv.M.VNarwade for R.4 & 5**
...

**CORAM : MANGESH S. PATIL, &
R.G.AVACHAT,JJ.
DATE : 22.11.2019**

PC. :-

The original petitioner in the PIL has filed this Review Petition being aggrieved by the order passed by Division Bench on 20/6/2017.

2] According to the petitioner, some illegal construction over the land belonging to the Gram Panchayat has been carried out and he sought an inquiry into it and for removal of the illegal construction. By order dated 20/6/2017, for the reasons mentioned in that order this Court had refused to entertain the PIL.

3] The learned advocate for the petitioner submits that the Court had refused to entertain the PIL primarily on the ground of delay in as much the Resolution was passed by the Gram Panchayat on 24/1/2004 but the PIL was being filed in the year 2016. The learned advocate submits that there was sufficient and cogent explanation assigned in the Petition itself which has been

ignored by this Court. The learned advocate would further point out that even in a suit filed by a lady the Civil Court has observed that the construction was in fact not over her property but was carried out over the property belonging to the Gram Panchayat. This much of material would have been sufficient for this Court to entertain the PIL.

4] In our considered view, in fact the order has been passed by this Court after going through the record and on merits. Apparently the Petition is devoid of any legal ground to review the order. It is sans any formal defect in the order. Assuming for the sake of arguments that there was a record to *prima facie* demonstrate that the construction was carried out over the property of the Gram Panchayat, at the most that would be an illegality in the order. When the record was already before the Court and still by the impugned order this Court has taken the view which it had taken, overlooking the record it cannot be said to be a formal defect which would entitle this Court to reconsider the matter.

5] Again the observations of the Civil Court were in a litigation inter partes. The issue whether the encroachment was on the property of the Gram Panchayat was not before the Civil Court. Therefore it would not have any relevance in the matter.

6] The learned advocate would then point out that in fact the Gram Panchayat even now has been agitating that the construction has been carried out illegally over its property. However, the impugned order was passed when the Gram Panchayat failed to file affidavit in reply.

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7] Needless to state that if at all according to the Gram Panchayat the construction has been carried out over its property illegally by some persons, it may have its own remedies in the law to make a grievance. However, that cannot be a ground to undertake a review.

8] Petition is dismissed.

[R.VAVACHAT,J.]

[MANGESH S. PATIL, J.]

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