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

**REVIEW APPLICATION NO. 208 OF 2019
IN
WRIT PETITION NO. 696 OF 2016**

Dwarkadas Mantri Nagri Sahakari Bank Ltd
Beed through its
Authorised Officer/Chief Executive Officer ..APPLICANT

VERSUS

1. State of Maharashtra
Through Collector Ahmednagar
Ahmednagar
2. The Sub Divisional Officer,
Shirdi, Tq-Rahta, Dist-Ahmednagar
3. Pradeep Surjmal Gandhi
Age – 56 years, Occ.Business,
r/o Ward no.7, Vardhman Housing
society, Shrirampur, Tq.Shrirampur
Dist.Ahmednagar
4. Narendralal Lalchand Patni
Age -55 years, Occ. Business,
r/o near Dr.Agase Hospital
ward No.7, Shrirampur,
Tq.Shrirampur, Dist-Ahmednagar.
5. Sabeetsingh S/o Raghunathsingh Sethi
Age-52 years, Occ.Business,
R/o Bungalow No. 3D, Gopalnagar
Shrirampur, Tq-Shrirampur,
Dist.-Ahmednagar.
6. Shaikh Eklah Babubhai
Age – 52 years, Occ-Business
R/o Sikandar Timber Mart, Dawkhar road
Shrirampur, Tq-Shrirampur
Dist-Ahmednagar ..RESPONDENTS

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Mr N. P. Bangar, Advocate for applicant;
Mr K.S.Patil, A.G.P. for respondent-State;

**CORAM : PRASANNA B. VARALE
AND
R. G. AVACHAT, JJ.**

DATE : 11TH OCTOBER, 2019

ORAL ORDER:

Heard the learned Counsel for the applicant and learned A.G.P.
for respondent Nos. 1 and 2.

2. By way of present application, the applicant (respondent No. 3 in Writ Petition No. 696 of 2016) prays for review of the order of this Court dated 25th July, 2019 passed in Writ Petition No. 696 of 2016.

3. The petitioner was before this Court challenging the order dated 11th December, 2013, passed by the Presiding Officer, Debts Recovery Tribunal, Aurangabad as well as the notice issued to the petitioner on 1st September, 2015. The Counsel for the petitioner, at the admission stage, made a statement that an appropriate statutory remedy is available to the petitioner i.e. of approaching the Debts Recovery Appellate Tribunal challenging the order of the Presiding Officer, Debts Recovery Tribunal and that the petitioner be permitted to avail that remedy by filing appropriate proceedings/appeal. Considering this statement, this Court permitted the petitioner to approach the Debts Recovery Appellate Tribunal and the Writ Petition was disposed of

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with the liberty of approaching the Debts Recovery Appellate Tribunal.

4. This Court then made it clear that the petitioner can approach the appellate authority subject to the petitioner's immediate approach to the tribunal, meaning there-by that if the delay caused at the instance of the petitioner, he himself would be responsible for the consequences due to the delay. This order is clearly an order only permitting the party to avail a statutory remedy without there being any assessment of the merits of the petition on a statement where by liberty was sought for.

5. Now, considering this very fact and on the backdrop of settled law of considering the review applications, we are unable to entertain the present review application. It is not in dispute that the review applications can be entertained on a limited premise such as; an error apparent on the face of the record, mis-representation of the fact, but, in the present matter the applicant is not coming before this Court by raising any such grounds.

6. The applicant is approaching the Court on the backdrop of the order passed by learned Single Judge, before whom the applicant filed an application seeking cancellation of bail granted to the

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respondent No.2. Perused the order passed by the learned Single Judge dated 2nd August, 2019. It clearly show that by order dated 20th March, 2019 the learned single Judge directed the respondent No. 2 therein and respondent No.3 in the present application to deposit an amount of Rs.35 lakh, which is the principal amount borrowed by the respondent No.2 from the applicant-Dwarkadas Mantri Nagri Sahakari Bank Ltd. Beed within stipulated period of four weeks. Then the order of learned Single Judge also refers to the consequences of failure to deposit the amount. Perusal of the order of learned Single Judge further shows that the learned Single Judge by order dated 20th March, 2019, directed respondent No. 3 to deposit an amount within stipulated period, was confirmed by the Hon'ble Apex Court by dismissing the Special Leave to Appeal filed by respondent No.2.

7. It is the submission of the learned Counsel for the applicant that these facts were not brought to the notice of the Division Bench and then a submission was made before the learned Single Judge that the applicant be permitted to file an application before the Division bench seeking review of order of this Court dated 25th July, 2019. Learned Counsel for the applicant then submitted that the respondent No. 2 is making an attempt to take disadvantage of this Court's order dated 25th July, 2019 and by suppressing the material facts, approached the appellate tribunal and if any order is passed by

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the appellate tribunal, the same would come in the way of the applicant.

8. In our opinion, the apprehension expressed in the application is merely an apprehension and we see no reason to say that the appellate authority would not consider the matter on its own merits that too when the present applicant would be a necessary party before the appellate tribunal. The present applicant is certainly not prevented to advance all the submissions before the appellate authority for opposing either the admission of the appeal or even opposing a prayer for interim order if made before the appellate tribunal.

9. It is also the submission of the learned Counsel for the applicant that respondent no.2 has not complied the order of the learned Single Judge dated 20th March, 2019, where by the respondent No. 2 was directed to deposit the amount within stipulated period. Considering this aspect of the matter, we hardly see any reason to entertain the application for the simple reason that the order of the learned Single Judge dated 20th March, 2019 makes it clear the consequences of non-compliance of the order and it is not in dispute now that the order of learned single Judge is confirmed by the Hon'ble Apex Court by dismissing the Special Leave to Appeal by order dated 2nd May, 2019.

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10. Thus, considering all these aspects, we are of a clear opinion that the application is devoid of any merit and deserves to be rejected at the threshold and the same is accordingly rejected.

(R. G. AVACHAT, J.)

(PRASANNA B. VARALE, J.)

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