

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

**CIVIL APPLICATION NO. 2062 OF 2019 IN
REVIEW APPLICATION STAMP NO. 28745 OF 2018 IN
WRIT PETITION NO. 8644 OF 2010**

**NAMDEO SANTOBA WAGH
VERSUS
SUDHIR MADHUKAR WADWALKAR AND OTHERS**

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Advocate for the Applicant : Shri C. V. Joshi
Advocate for the Petitioner Nos. 1 and 2 : Shri M. M. Jadhav
h/f. Shri S. P. Shah

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**CORAM : RAVINDRA V. GHUGE AND
SUNIL K. KOTWAL, JJ.**

DATED : 14th JUNE, 2019.

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PER COURT :

1. By this application, the applicant prays for condonation of delay of 326 days caused in filing the review application.
2. The learned Advocate for the review applicant submits that Writ Petition No. 8644/2010 was decided by judgment dated 28/09/2017 by this Court. The applicant was respondent No. 3 in the said petition. For some reasons, the learned Advocate appearing on behalf of the applicant was not available. An affidavit in reply was also filed. However, the

petition was allowed by this Court without taking into account the contentions of the applicant. He, therefore, preferred Civil Application No. 688/2018 praying for recalling the judgment dated 28/09/2017. By an order passed by this Court, the Civil Application was disposed off on 13/07/2018 holding that the application is not tenable and it would be open for the applicant to take appropriate steps. Hence the applicant preferred the review application on 19/10/2018.

3. The learned Advocate for respondent Nos. 1 and 2 opposes the application.

4. We find that the applicant had approached this Court with promptitude by filing a Civil Application. It was on legal advise that he had filed the said application and it was subsequently held to be untenable by this Court on 13/07/2018, which is after almost 9 months. The delay, therefore, cannot be said to be deliberate or inordinate. We do not find that laches or oblique motives could be attributed to the conduct of the applicant.

5. Considering the above and the law laid down by the Honourable Apex Court in the matters of *Collector Land Acquisition, Anantnag vs. Mst. Katiji & Ors, 1987 AIR S.C.1353*, and *Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy and others, (2013) 12 SCC 649*, this application is allowed. The delay of 326 days is condoned.

6. The review application would be registered subject to removal of all office objections on or before 28/06/2019. The applicant is at liberty to seek circulation in the review application after office objections have been removed.

(SUNIL K. KOTWAL, J.)

(RAVINDRA V. GHUGE, J.)

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