

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

901 REVIEW APPLICATION (CIVIL) NO.48 OF 2018

SHASHIKANT BHANUDAS SHELKE AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. P.R. Katneshwarkar, Advocate h/f Mr. A.P. Avhad, Advocate for applicants

Mr. S.S. Dande, AGP for the respondent Nos.1, 2, 5 and 6

Mr. B.R. Surwase, Advocate for the respondent No.4

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**CORAM :** SUNIL P. DESHMUKH AND  
SMT. VIBHA KANKANWADI, JJ.

**DATE :** 01<sup>st</sup> AUGUST, 2019

**PER COURT :**

1 Heard learned counsel for appearing parties.

2 Learned counsel for review applicants refers to Section 49 of the Maharashtra Land Revenue Code, 1966 (“**M.L.R. Code**”) and submits that having regard to the facts and circumstances of case, those would not be covered by Section 49 of the M.L.R. Code. He submits, Section 49 deals with construction of water course through land belonging to other person. It is the State Government which purports to lay down an underground pipeline

and for said purpose proceedings for acquisition had been mooted which seldom had anything to do with Section 49 of M.L.R. Code.

3            Facts and circumstances suggest that Section 49 of M.L.R. Code may not cover the situation. In the circumstances, it would be appropriate to recall order dated 21.09.2017 passed in Writ Petition No.2152 of 2017 and restore the writ petition. As such, review application to that extent is allowed. The order dated 21.09.2017 is recalled. Writ Petition No.2152 of 2017 is restored.

**( Smt. Vibha Kankanwadi, J. )**

**( Sunil P. Deshmukh, J.)**

agd