

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Misc. Civil Application No.38 of 2019 (for Review)

In

Writ Petition No.8701 of 2018 (D)

M/s. Keshavalal Tarachand Lathiwala, Darwaha, Distt. Yavatmal, through its Partner,
Ramnklal s/o Keshawlal Lathiwala

Versus

The District Supply Officer, Yavatmal.

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Shri Firdos Mirza, Advocate for Applicant/Petitioner.

Shri S.Y. Deopujari, Government Pleader for Respondent-State/
Non-Applicant.

Coram : R.K. Deshpande & Vinay Joshi, JJ.

Dated : 18th January, 2019

On 22-12-2018, we passed an order in Writ Petition
No.8701 of 2018 as under :

“ *Our attention is invited to the order passed by this
Court on 18.12.2018 in Writ Petition No.8583/2018 which
we reproduce below:-*

*“Issue notice for final disposal of the matter,
to the respondent, returnable on 26.02.2019.*

The question involved in this petition is whether the order passed by the respondent – District Supply Officer, Yavatmal, on 29.10.2018 is without jurisdiction. The order does not refer to any provision of law, in exercise of which the recovery of Rs.11,58,499/- is ordered, to be treated as the arrears of land revenue.

There shall be stay of the recovery of the amount.”

We distinctly remember that when we passed the aforesaid order in the said Writ Petition, we were informed that there is no provision of appeal or revision against the order impugned in the present petition. However, today, it is brought to our notice that under Maharashtra Kerosene Dealers' Licensing Order 1966, there is a provision of appeal under Clause 14.

In view of above, we dismiss all these petitions with cost of Rs.15,000/- each.”

The present misc. civil application is for recall of the aforesaid order. We are fully convinced that when the aforesaid

order was passed, the question of availability of alternate remedy was considered while issuing the notice for final disposal in Writ Petition No.8583 of 2018. This Court framed the question and granted stay to the recovery of the amount. The present matter involves the same question.

In view of this, it was impermissible for the respondent-State Government to have raised the issue of alternate remedy of appeal under Clause 14 of the Maharashtra Kerosene Dealers' Licensing Order, 1966, particularly when the issue is already concluded by the decision of this Court in the case of *Shivaji Tulshiram Thakre v. State of Maharashtra and others*, reported in 2012(1) ALL MR 150, holding that the remedy of appeal under Clause 15 of the Maharashtra Scheduled Commodities Retail Dealers' Licensing Order, 1979 therein, which is identical to Clause 14 of the Order of 1966, was not available.

We, therefore, recall the order dated 22-12-2018. The misc. civil application is allowed. The State to pay the costs of Rs.1,000/-, to be deposited in the High Court Legal Services Sub-Committee, Nagpur.

(Vinay Joshi, J.)

(R.K. Deshpande, J.)