

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

**REVIEW APPLICATION (CIVIL) NO. 179 OF 2019
IN WP/6106/2018**

Nita Ganesh Shelar

... **Applicant**
(Orig. Respondent No. 3)

Versus

Shivram Kashiram @ Kashinath Shelar
and others

... **Non applicants**
(Orig. Petitioner)

...

Advocate for the Applicant : Mr. Dalvi Uday D.
A.G.P. for the Non-applicant No. 2 : Mr. PS. Patil.
Advocate for Non-applicant No. 1/Orig. Petitioner : Mr. H.D. Sonawane

**CORAM : S. V. GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

DATE : 07/02/2020

PER COURT :

The present review applicant is original respondent No. 3 in Writ Petition. The Writ Petition is filed by the present respondent No. 1. The Writ Petitioner sought directions against the respondent No. 2 to transfer the compensation amount of Rs.29,21,661/- with interest from account No. 3669505669 to the Account No. 1947104000042431 with IDBI Bank, Branch Vaijapur.

2. Though the present applicant was served twice none remained present for the applicant when the matter was fixed. The present applicant is relying upon the order passed by the Judicial Magistrate First Class,

Aurangabad, dated 14.03.2019 in P.W.D.VA.No. 234/2018. The order reads thus :

- “i. Application is partly allowed.
- ii. Order under Section 18 r/w 23 of The Protection of Women From Domestic Violence Act, 2005:

Respondents, their agents or anybody on their behalf as well as the petitioner are prohibited from withdrawing the amount of Rs. 29,22,061/- from the joint account standing in the name of Nita Ganesh Shelar and Shivram Kashiram Shelar, in the account bearing No. 3669505669 with Central Bank of India, branch Waluj, Aurangabad, till the decision of this case. ”

3. Mr. Sonone the learned counsel for the present non-applicant No. 1 submits that the present non-applicant No. 1 was not aware of the proceeding in which the order dated 14.03.2019 was passed. The present non-applicant No. 1 is not party to the said proceeding as such, did not get knowledge of the said order. The learned advocate submits that as the present non-applicant No. 1 is not party to the said proceeding the said order is not binding upon him. The amount is the one, which the non applicant No. 1 has received on account of the sale of the property owned by the present non-applicant No.1.

4. It appears that when the writ petition was disposed of the order dated 14.03.2019 was in force. In ignorance of the said order we had allowed the writ petition.

5. Considering the fact that the order dated 14.03.2019 below Exh. 4 in P.W.D.VA. 234/2018 was not brought to the notice of this Court and which is required to be considered while deciding the writ petition on its own merits, we review our order dated 05.08.2019 in Writ Petition No. 6106/2018. The order dated 05.08.2019 is recalled and Writ Petition No. 6106/2018 is restored to its original stage.

6. Review Application accordingly disposed of. No costs.

(MANGESH S. PATIL, J.)

(S. V. GANGAPURWALA, J.)

mkd