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

**CIVIL APPLICATION NO.432 OF 2020
IN/WITH
REVIEW APPLICATION (ST.) NO.39555 OF 2019
IN
WRIT PETITION NO.5312 OF 2017**

The State of Maharashtra,
through the Secretary,
Revenue Department,
Mantralaya, Mumbai 32 & ors.

..APPLICANTS

VERSUS

The Union of India,
through : The Principal Secretary,
Department of Railways,
Railway Bhavan, New Delhi & ors.

..RESPONDENTS

Mr S. P. Sonpawale, A.G.P. for applicants;
Mr M. N. Navandar, Advocate for respondent Nos.1 to 4;
Mr R. R. Mantri, Advocate for respondent No.5

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

DATE : 27th January, 2020

ORAL ORDER:

By way of present application, the applicants-State prays for condonation of delay of 440 day caused in filing review application in Writ Petition No.5312 of 2017. Perusal of the judgment and order of which the review is sought for shows that except applicants-State, the other respondents i.e. respondent Nos.1 to 4 herein, have not raised any challenge to the order of this Court till date. Respondent No.5 i.e.

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the original petitioner was represented through Mr Mantri, learned Counsel and today, Mr Mantri submits that he has been instructed to appear for respondent No.5.

2. In view of the aforesaid facts, it may not be necessary for this Court to issue notice to respondent Nos.1 to 4 and by consent of the parties, the application for condonation of delay and application seeking review of the order are heard.

3. Mr Mantri, learned Counsel for respondent No.5 vehemently opposes both the applications. Insofar as application for condonation of delay is concerned, it is the submission of Mr Mantri that there is absolutely no reason coming forward to explain the inordinate delay of 440 days, caused in filing review application.

4. We find considerable merit in the submission of Mr Mantri. True it is that the reason assigned is only reflected in para 3 of the application and the same is as vague as it could be. The oral submission of learned Asstt. Govt. Pleader is that for certain procedural difficulties and administrative exigencies, the delay is caused in filing the review application.

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5. Accepting the submission of Mr Sonpawale, learned Asstt. Govt. Pleader, the delay is condoned. Accordingly, the civil application seeking condonation of delay is allowed and the application seeking review is taken up for hearing and disposal.

6. It was the attempt of Mr Sonpawale, learned Asstt. Govt Pleader to submit before this Court that the ground for review is ground No.3 and another ground is in view of judgment of the Honourable the Apex Court, even if a party enters as a necessary party in the proceedings in place of the original land owner in his shoes, being purchaser of the land, once the award is passed, such a party would not be entitled to claim any benefit. It may not be out of place to state that in the judgment and order dated 20th/29th August, 2018, passed by this Court, all these objections raised by the respondents are dealt with in detail. More particularly, para Nos.18 and 19 of the said judgment and order refers to the factual aspects of the matter and in para 19, this Court dealt with all the aspects of the locus of the petitioner, who is the purchaser of the land. In para 20, reference is also made to the judgment of the Honourable the Apex Court and though learned Asstt. Govt. Pleader submitted before this Court orally that there is a judgment of the Honourable the Apex Court, no reliance was placed on any of such judgment taking another view while the petition was heard on merits at length by this Court. The Division Bench of this

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Court also refers to the other various judgments of the Honourable the Apex Court and this Court dealing with the issue in detail.

7. Considering all the aforesaid facts, we are unable to entertain review application and moreso when, it is the settled position of law that in a limited scope of exercising the powers of this Court in review application, more particularly on the ground that either there is an error apparent on the face of the order or there is suppression of the facts by the party or finding of material, which was unable to be traced out by the party in spite of his best possible efforts, but no such ground is urged before this Court and what is urged is, re-appreciation of the material. Needless to state that exercise of re-appreciation of the material cannot be appreciated in the review application. The review application, thus, being wholly meritless, deserves to be dismissed at the threshold and the same is dismissed accordingly.

(R. G. AVACHAT, J.)

(PRASANNA B. VARALE, J.)

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