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

906 REVIEW APPLICATION (CIVIL) NO.244 OF 2019
IN CA/11868/2019 IN WP/3132/2019

KISHAN PRASAD TANDON, (DECEASED), LRS. (SUBSTITUTE)
SECRETARY JWALADAS MAHARAJ TRUST, THROUGH G.P.
KAKKAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Mr S. C. Arora, Advocate for applicant;
Mr S. R. Yadav, A.G.P. for respondent Nos.1 to 4;
Mr S. P. Pandav, Advocate for respondent No.5-2

CORAM : RAVINDRA V. GHUGE, J

DATE : 26th November, 2021

PER COURT:

1. A Review Petition with a paper book running in 573 pages along with annexures, is filed. Seven grounds are formulated. In every ground, it is canvassed that "*it needs to be reconsidered*". It is apparent that the applicant desires to re-argue the Writ Petition, which is beyond the scope of a review application in the light of **Lily Thomas, etc. vs. Union of India, AIR 2000 SC 1650** and **Kamlesh Verma vs. Mayawati and others, 2013 ALL SCR 3411**.

2. The order sought to be reviewed is dated 04/10/2019. The said order clearly is a consenting order in the light of the statement recorded as follows :-

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“11. I find from the record that this Court (Coram : N.W.Sambre,J.) had considered Writ Petition No.6198 of 2013 filed by the same petitioner / trust herein, challenging the validity of the order dated 7.6.2013 passed in Case No. LR/TNC/90-Gandheli/A-17/2011. By a reasoned order, this Court dismissed the Writ Petition and concluded that the contentions of the parties are left open for consideration before an appropriate authority and these parties could, therefore, canvass all their points before the appropriate forum. Pursuant to this rejection, the impugned order has been passed and a statutory appeal is the remedy.

12. The learned Advocate for the petitioner / trust requests that the ad-interim protection granted by this Court on 25.4.2019 be continued so as to enable the trust to prefer an appropriate appeal before the Collector under Section 90(2) of the HTAL Act. He clarifies that a rival warring faction from amongst the trustees of this trust are already before the Collector in substantive appeals challenging two orders. One of the impugned orders is dated 21.12.2018, which is subject matter of the petition in hand. He, therefore, prays that this petitioner faction representing the trust be permitted to file an appeal for challenging the order dated 21.12.2018 before the Collector by keeping all contentions and issues open. He also requests that the time spent by the petitioner in this Court from 5.2.2019 may be considered as a good ground for condonation of delay, if any.

13. The learned Advocate for the applicants submits that they would not oppose the delay caused in filing of the appeal after the petitioner / trust prefers such a proceeding and would not come in the way of the petitioner in so far as the condonation of delay is concerned. They would however, reiterate and object that the person through whom this petition is filed and the appeal that is likely to be filed, has no locus standi.

14. In view of the above, the Civil Application is partly

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allowed and the Writ Petition is disposed off with the following directions:-

(A) The petitioner / trust is at liberty to prefer an appeal for challenging the impugned order dated 21.12.2018 passed in proceeding No.2-2017/Bhusudhar/E-Disnik/CR-54.

(B) The learned Advocate for the petitioner submits that the petitioner would prefer the appeal on/or before the 5.11.2019.

(C) The time spent by the petitioner in this Court from 5.2.2019 till 5.11.2019 shall therefore be considered as a good ground for condonation of delay and the respondent herein shall not oppose such condonation.

(D) All the contentions of the litigating sides, including objections as regards locus standi / res judicata and all objections as are permissible to be raised in law, are kept open for the competent authority to consider on their merits.

(E) If the competent authority finds it appropriate to take up all the appeals pertaining to the impugned order, together, in view of the same trust being at issue, notwithstanding the rival factions, it would be at liberty to do so.

(F) The litigating parties are at liberty to enter their written notes of submissions as well as compilation of case law, if so advised.

(G) The order passed by this Court dated 25.4.2019 shall continue as the competent authority has already stayed the impugned order dated 21.12.2018 in the pending appeals, until the competent authority decides the appeal.

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15. The record and proceedings in case Nos. LR/TNC/90-Gandheli/ A-17/2011 and 2-2017/ Bhusudhar/ E-Disnik/CR-54 shall stand remitted forthwith.”

3. The learned Advocate for the same petitioner who is the applicant in this review petition, submits that he desires to advance extensive arguments on the entire issue before the Court, despite the order sought to be reviewed, being a consenting order. He practically desires to argue out the writ petition. Hence, to save the time of the Court, the learned Advocate is restrained. However, he keeps on insisting that he should be heard at length. This conduct is unbecoming on the part of a Lawyer, when a consenting order is acquired and having accepted the consenting order, the review petition is filed.

4. Considering the above, the Review Petition filed on 22/10/2019, is, therefore, rejected.

(RAVINDRA V. GHUGE, J.)

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