

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

**924 CIVIL APPLICATION NO.3857 OF 2022
IN WP/6653/2021**

**BHAGWAN MOTIRAM MEHATRE AND OTHERS
VERSUS
BALASAHEB SAMPAT ZAGADE AND OTHERS**

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Advocate for Applicants : Mr. Devdatt P. Palodkar
Advocate for Respondent No.1 : Mrs. Anjali Dube (Bajpai)
AGP for Respondent Nos.2 to 4-State : Mr. P.G. Borade

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**CORAM : PRITHVIRAJ K. CHAVAN, J.,
DATED : 16th MARCH 2022**

PER COURT:

1. A precipice is moved along with an application with a prayer to recall an order passed by this Court on 11th March 2022 in Civil Application No.3388 of 2022 by which this Court had permitted the petitioners to raise a temporary structure in view of the ensuing monsoon, which would protect him from the rains and other natural calamities solely on sympathetical and humanitarian ground looking to the age of the petitioner as well as dilapidated condition of the structure.

2. Heard Mr. Palodkar, the learned Counsel for the applicant original respondent Nos.5 to 9.

3. Undisputedly, when the order was passed, though, Mr. Shubham Khoche holding for Mr. Palodkar was present, nothing much could be addressed by Mr. Khoche. However, the learned Counsel for the petitioner Mrs. Dube has invited attention of this Court mainly on the coloured photographs taken on 18th February 2022 *prima facie* indicating the dilapidated structure as well as an old man with red turban presumably the petitioner herein.

4. The learned Counsel for the respondent invited my attention to the second ground of this application, wherein, it is stated that the petitioner has suppressed a fact that the parties are litigating before the Civil Court and the decision of that Court would be affected. The learned Counsel for the respondent has also invited my attention to the impugned order passed by the Hon'ble Minister as regards delay of 52 years in approaching the authority by the petitioner under the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947.

5. In any case, since the order came to be passed without giving an opportunity of hearing to the respondent and only on the sympathetic ground, it stands recalled. Nevertheless, the petitioner is at liberty to approach the appropriate and competent authority for redressal of his grievance. The competent authority shall entertain the application of

the petitioners and after giving due opportunity to the respective parties, pass an order in accordance with law.

6. It is made clear that the competent authority shall not get influenced by the order passed by this Court on 11th March 2022, which stands recalled.

7. Civil Application No.3857 of 2022 is disposed of in aforesaid terms.

[PRITHVIRAJ K. CHAVAN, J.]

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