

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

903 REVIEW APPLICATION NO.36 Of 2020

WITH

CIVIL APPLICATION NO.7612 OF 2021

IN

WRIT PETITION NO.12578 OF 2015

SHARDA JAYRAM BHALERAO

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. Dananjaya V. Bodhankar, Advocate for Petitioner

Mrs. M.A. Deshpande, AGP for Respondents-State

...

CORAM : A.S. GADKARI

AND

S.G. MEHARE, JJ.

DATE : 04th JANUARY 2022

P.C.:

1. Present review petition is directed against the Judgment dated 21st July 2016 passed in Writ Petition No.12578/2015.

Heard learned Advocate for the review petitioner at length and the learned AGP for Respondent-State

2. The predominant, rather main ground raised for filing of present review petition is that, after pronouncement of the Judgment dated 21st July 2016, the petitioner got some additional material in support of her case and it has to be considered afresh.

We are unable to agree with the contention of the learned Counsel for the petitioner.

3. The Hon'ble Supreme Court in the case of *Haridas Das Vs. Usha Rani Bank (SMT) and Others* reported in (2006)4 SCC 78 in para No.13 has held as under:-

*"13. In order to appreciate the scope of a review, Section 114 of the CPC has to be read, but this section does not even adumbrate the ambit of interference expected of the court since it merely states that it "may make such order thereon as it thinks fit." The parameters are prescribed in Order 47 CPC and for the purposes of this lis, permit the defendant to press for a rehearing "on account of some mistake or error apparent on the face of the records or for any other sufficient reason". The former part of the rule deals with a situation attributable to the applicant, and the latter to a jural action which is manifestly incorrect or on which two conclusions are not possible. Neither of them postulate a rehearing of the dispute because a party had not highlighted all the aspects of the case or could perhaps have argued them more forcefully and/or cited binding precedents to the court and thereby enjoyed a favourable verdict. This is amply evident from the explanation in Rule 1 of the Order 47 which states that the fact that the decision on a question of law on which the judgment of the court is based has been reversed or modified by the subsequent decision of a superior court in any other case, shall not be a ground for the review of such judgment. Where the order in question is appealable the aggrieved party has adequate and efficacious remedy and the Court should exercise the power to review its order with the greatest circumspection. This Court in *Thungabhadra Industries Ltd. v. The Govt. of A.P* held as follows: (SCR P 186)*

"[T]here is a distinction which is real, though it might not always be capable of exposition, between a mere erroneous decision and a decision which could be characterized as vitiated by "error apparent". A review is by no means an appeal in

disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error. ... where without any elaborate argument one could point to the error and say here is a substantial point of law which states one in the face, and there could reasonably be no two opinions entertained about it, a clear case of error apparent on the face of the record would be made out."

The Hon'ble Supreme Court in the case of *Collector of 24 Parganas & Others V/s. Lalith Mohan Mullick & Others* reported in AIR 1988 SC 2121 has held that, a new ground cannot be taken into consideration for the purposes of the review application, apart from the fact that it would also involve investigation of new facts.

4. After applying the ratio laid down by the Apex Court in the above decisions to the present case, we are more than satisfied that, no ground is made out for review of Judgment dated 21-07-2016.

The review petition being devoid of merits is accordingly dismissed.

5. In view of dismissal of Review Petition itself, Civil Application No.7612/2021 does not survive and is accordingly disposed off.

(S.G. MEHARE, J.)

(A.S. GADKARI, J.)