

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

**REVIEW APPLICATION (CIVIL) NO.66 OF 2021
IN WP/8784/2018**

**BABAN GOVIND GUND AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA (REVENUE DEPARTMENT) AND
OTHERS**

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Advocate for Applicants : Mr. Ram B. Deshpande
AGP for Respondents – State : Mr. S. W. Munde
Advocate for Respondent Nos. 2 to 7 : Mr. N. C. Garud

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 06th JANUARY, 2022

PER COURT :

1. Review of the judgment of this Court dated 22-06-2021 in Writ Petition No.8784/2018 is sought in the present application. The grounds raised seeking review are the same which were already pressed in to service by the learned advocate for applicants, at the time of arguing the writ petition on merits.

2. The learned advocate for applicants contended that the writ petition is maintainable against the compromise decree when the compromise decree is obtained by fraud. This argument is duly considered by this Court while passing the judgment under review. The citation relied upon by the learned advocate for petitioners i.e. **A. A.**

Gopalakrishnan Vs. Cochin Devaswom Board and Others, AIR 2007 SC 3162, is also taken into consideration by this Court while holding that the writ petition is not maintainable. The learned advocate for petitioners reiterates that the writ petition is maintainable against the compromise decree which is obtained by fraud. In support of the said contention, he seeks to rely upon the same decision i.e. **A. A. Gopalakrishnan (supra)** case and **the State of Punjab and Another Vs. Jalour Singh and Others, AIR 2008 SC 1209**.

3. As is observed earlier, the decision in **A. A. Gopalakrishnan (supra)** is already considered by this Court. It is pertinent to note that in the said decision the Hon'ble Apex Court has held that the bar contained in Rule 3A will not come in the way of the High Court examining the validity of a compromise decree, when allegations of fraud are made against a statutory authority which entered into such compromise.

4. While coming to the conclusion that the writ petition is not maintainable this Court has specifically observed that

“Yet in the case in hand the petitioners were not party to the compromise decree, drawn in a suit for partition, and therefore, even if, the parties to the suit did not disclose, proceedings instituted against the petitioners in respect of the suit property, that itself would not amount either to ‘suppression of facts’, leading to a collusive decree. In consideration of the facts aforesaid and for the reasons stated, the petition is dismissed.”

5. In **Jalour Singh and Others** (supra), the Hon'ble Apex Court has held that, since the award passed by the Lokadalat is not appealable, such an award can only be challenged under Article 226 and/or Article 227 of the Constitution of India. Reliance placed on the said citations is, therefore, misconceived. No case for review is made out. Review application is, therefore, dismissed.

(NITIN B. SURYAWANSHI, J.)