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

**REVIEW PETITION NO.207 OF 2022
IN
WRIT PETITION NO.5077 OF 2022**

National Highways Authority of India,
Through
Shri Ravindra S. Ingole,
Age : 42 years, Occu: Project Director,
PIU Dhule, NHAI,
Office at Project Implementation Unit (PIU),
Mansaram Nagar Sakri Road Dhule.

...Applicant

Versus

1. Govind Poslya Gavit.
Age : 40 years, Occupation : Agriculture,
R/o. Nandgipada Tal. Navapur,
Dist. Nandurbar.
2. Vilas Vijaysing Valvi,
Age : 48 years, Occupation : Agriculture,
R/o. Gangapur, Tal. Navapur,
Dist. Nandurbar.
3. The Competent Authority and Special Land Acquisition
Officer NH-6, Assistant Collector, Nandurbar,
Tal. And Dist. Nandurbar.
4. Deputy Superintendent of Land Record,
Nandurbar, Tal. And Dist. Nandurbar.
5. The District Collector,
Nandurbar.

...Respondents

Mr. Deepak S. Manorkar, Advocate for Applicant;
Mr. D.S. Bagul, Advocate for Respondent Nos.1 and 2.
Mr. Ramdas B. Bhosle, Advocate for Respondent No.3.
Mr. A.S. Shinde, AGP for Respondent Nos.4 and 5.

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**CORAM : MANGESH S. PATIL
& S. G. MEHARE, JJ.**

DATE : 12 August 2022

PC.

1. Respondent no. 2 in Writ Petition No. 5077 of 2022, decided on 05.05.2022, has preferred the present review application.

2. Respondent no. 2/present applicant has prayed for the following reliefs;

“B. The order dated 5th May 2022 passed by this Hon’ble Court in the W.P. No.5077/2022 may kindly be reviewed and set aside for the reasons mentioned in the petition”

3. The original petitioners/present respondents nos.1 and 2 had filed the writ petition with the prayer that the direction may be issued to the respondent no.2/present applicant to stop construction of the National Highway no.6 at the sites owned by them and complete the land acquisition proceedings in respect of their properties bearing Gut nos. 45/4/A/B, 45/4/C, 45/3/8 of Mouje Gangapur, Taluka Navapur, District Nandurbar and further to pay compensation to them.

4. The petitioners/present respondents nos.1 and 2 had a case that they were the owners of the above field gut numbers. The Government of India, the Ministry of Road Transport and Highways, issued a notification on 11.11.2011, published the same in the

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Gazette of India under Section 3(A) of the National Highways Act, 1956 and thereby declared its intention to acquire the land in Nandurbar District. A Writ Petition No.7490/2020 was also filed. In a nutshell, the case of the present respondents nos. 1 and 2 was that the Authority started constructing the Highway without acquiring their lands.

5. The present applicant had contested the said writ petition by filing a reply affidavit. This Court in the W.P. No. 5007/2022 has observed in paragraph no. 17, which reads thus:

“17. We have repeatedly called upon the respondent no.2 to demonstrate whether the lands of the petitioners are included in any of the earlier Awards made by Competent Authority on which according to the petitioner construction of road is going on, the learned senior counsel for the respondent no.2 is unable to produce any record before this Court. On the contrary, it is reiterated that in view of the earlier order passed by this Court, petitioners can raise all these objections in this petition before CALA.”

6. The learned counsel for the applicant has vehemently argued that subsequent to the decision of the Writ Petition, it has received certain important information that the respondents nos.1 and 2 had purchased the properties from the Gut no. 45 subsequent to the commencement of the Land Acquisition Proceedings in respect of some portion from the said gut number. They had purchased the said land with an intent to grab excess compensation by converting it into

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Industrial N.A. use after publication of the Notification. It has discovered documents that would dis-entitle the respondent nos. 1 and 2 from the protection granted to them by the order dated 05.05.2022. If those documents are considered, the applicant may get success in the review. He has referred to various documents placed on record. He also reiterated the arguments which were advanced during the hearing of the original Writ Petition. He has also given a chart showing who were the owners of the Gut nos.45/1, 45/2, 45/3/1, 45/3/2, 45/3/3, 45/3/4 and 45/3/5P and argued that the present respondent nos. 1 and 2 never raised objection before the Competent Authority. Most of the other grounds are repetition which were raised earlier.

7. Per contra, learned counsel Shri D.S. Bagul for respondent nos. 1 and 2 has vehemently argued that the applicant has no case for review. He is unable to point out *prima facie* error in the order passed by this Court. The applicant has, even today, no material to show that any time before, the lands of respondent nos.1 and 2 were acquired and Award was passed. He referred to various documents pertaining to the earlier joint measurements and documents of title. He has vehemently argued that respondent nos. 1 and 2 have a valid title over the land in question, and the Authority started construction of the Highway without acquisition. A bunch of documents have been

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filed on record. He also argued that most of the grounds raised by the applicant are irrelevant and only on the facts, which this Court has considered while deciding the petitions. This Court had repeatedly called upon the applicant whether it has any document showing the acquisition of the lands owned by the present respondent nos.1 and 2 or was there any Award passed. However, it had no satisfactory answer. There is no substance in the application. Hence, it may be dismissed.

8. The Court has gone through the documents submitted by the applicant and contesting respondents and considered the arguments advanced by their learned counsels. For review, the party seeking review shall point out the *prima facie* error on the face of the record. The facts which were already considered on merit cannot be reiterated. The review should be related to the errors committed in the judgment, that highly affect the interest of the parties seeking review. There appears to be no discovery of new facts relevant to the facts in issue. Respondent nos.1 and 2 had a specific case. Their lands were not acquired and still construction had started. It is a settled law that the Government cannot use the private land unless it acquires the same following the procedure laid under the land acquisition laws. The applicant has no material to show that he has

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any such documents regarding the acquisition of the land of respondent nos. 1 and 2.

9. We do not find any substantial ground for review. Hence, the application stands dismissed. No orders as to the costs.

(S. G. MEHARE, J.)

(MANGESH S. PATIL, J.)

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