

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

902 REVIEW APPLICATION (CIVIL) NO.158 OF 2019
IN WP/11816/2016
WITH CA/5660/2018 IN RA/158/2019

ASHRU BABU BHOLE, DIED THR. LR ASHOK ASHRU BHOLE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Smt. M. A. Kulkarni, Advocate for applicant;
Mr S. G. Sangle, A.G.P. for respondent Nos.1 to 4/State
Mr A. V. Indrale Patil, Advocate for respondent Nos.5 to 14

CORAM : RAVINDRA V. GHUGE, J.

DATE : 23rd February, 2023

PER COURT:

1. The applicant has raised the following four grounds :-

“I. Whether, it is correct to say that for exercising powers U/s 31-A of the said Act there is limitation in view of Section 152 of the Code of Civil Procedure.

II. In view of delegation of powers whether Deputy Director of Land Records is having jurisdiction to act U/s 31-A of the said Act.

III. If while preparing consolidation scheme no notice is given and no possession is taken from applicant, the authority cited can be applied to present case?

IV. If the sale deeds in question do not prove the identity of the property whether it can be said that sale deeds are in respect of same land purchased by Babu in the year 1938.”

2. I have considered the submissions of the learned Advocate for the review applicant and the learned Advocate representing the original petitioners.

3. While delivering the judgment dated 02/02/2018, this Court had considered the law crystallized in **Limbraj Waman Yede Vs. State of Maharashtra, [2014 (4) BCR 9451]**. The judicial pronouncement as regards Section 31-A of the Bombay Prevention and Fragmentation and Consolidation of Holdings Act, 1947, that a clerical or arithmetical mistake can be corrected, was made applicable to the case of the petitioners. The review applicant, who was respondent No.5 in the writ petition at issue, had attempted to disturb the settled position with regard to the writ lands, by approaching the Hon'ble Minister, after almost 43 years of the consolidation scheme. Taking into account the effect of Section 31-A and the fact that, what was intended by the review applicant, was to upset the situation of writ lands and in the absence of any clerical or arithmetical mistake, the writ petition

was allowed in terms of prayer clauses (C) and (D), which read as under :-

“C) By issuing writ of certiorari or any other appropriate writ, order or directions the impugned judgment and order dated 09.11.2016 passed by the Hon’ble State Revenue Minister, Maharashtra State, Mantralaya, Mumbai in Revision bearing Case No. Conso/3316/2561/No.120/J-6 be quashed and set aside. Consequently revision petition preferred by the petitioners be allowed and for that purpose necessary directions be issued.

D) Pending the admission, hearing and final disposal of this writ petition the impugned order dated 9.11.2016 passed by the Hon’ble State Revenue Minister, Maharashtra State, Mantralaya, Mumbai in Revision bearing Case No. Conso/3316/2561/No.120/J-6 and order dated 17.10.2014 passed by the respondent no.2 Deputy Director of Land Record, Nasik Division, Nasik (Exh. G), consequent corrigendum issued by the respondent no.3 District Superintendent of Land Record, Ahmednagar dated 09.11.2014 (at Exh.I) thereby effecting the change and amendment to the consolidation scheme as regards to land bearing Gut No.1149 (Survey No.531/1) and land Gut No.1144 (Survey No.531/2) situated at Shrigonda, Tal: Shrigonda, Dist: Ahmednagar and be stayed and for that purpose necessary directions be issued.”

4. The Hon’ble Supreme Court has concluded in **S. Madhusudhan Reddy Vs. V. Narayana Reddy and others, 2022 SCC Online SC 1034** that, if there is any error apparent on the face of the record, a review can be entertained. However, if the review applicant intends to point out, as to how the judgment

is perverse and erroneous, the scope of review under Section 114 read with Order XLVII of the Code of Civil Procedure, would not permit the review application to be entertained.

5. In another judgment recently delivered by the Hon'ble Supreme Court, dated 15/02/2023, in **Pancham Lal Pandey Vs. Neeraj Kumar Mishra and others**, it was held that, a review cannot be entertained as like re-considering the original proceeding, since it amounts to rehearing and rewriting the judgment.

6. In view of the above, this review application is devoid of merits and the same stands rejected. Pending civil application would not survive and the same also stands rejected.

(RAVINDRA V. GHUGE, J.)

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