

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

**904 REVIEW APPLICATION (CIVIL) NO.226 OF 2023
IN WP/8612/2022**

**RAMNATH GOVIND KADAM AND OTHERS
VERSUS
MANGAL BHAUSAHEB KADAM AND OTHERS**

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Advocate for Applicants : Mr.Karpe Rahul R.
AGP for Respondents/State : Mr. S.S.Dande
Advocate for Respondent Nos. 1 to 6 : Mr.Pankaj A. Bharat

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**CORAM : KISHORE C. SANT, J.
DATE : 08.11.2023.**

PER COURT :

1. Heard. This Review Application is moved seeking review of the order passed by this Court dated 09.06.2023. This Court by way of order had allowed the applicants/petitioners in Writ Petition No. 8612 of 2022 to withdraw the petition with liberty to file proceedings before appropriate forum. This order was made in view of statement made by the learned Advocate for respondent Nos. 1 to 6, that there is an alternative remedy to challenge the order impugned in the petition in view of Section 14-B (1).

2. Now it is pointed out that the remedy is available

only in case where complaint is allowed against a sitting Member of the Grampanchyat. However, the same remedy is not available to the complainant in case his complaint is dismissed.

3. The learned Advocate for the applicants/petitioners also relied upon the judgment reported in **2005 (4) SCC 741** in the case of Board of Control for Cricket in India and another v. Netaji Cricket Club and Others, the Hon'ble Apex Court in the said judgment in paragraph No. 88, 89 and 90 observed as below :

“88. We are, furthermore, of the opinion that the jurisdiction of the high Court in entertaining a review application cannot be said to be ex facie bad in law. Section 114 of the Code empowers a Court to review its order if the conditions precedent laid down therein are satisfied. The substantive provision of law does not prescribe any limitation on the power of the Court except those which are expressly provided in Section 114 of the Code in terms whereof it is empowered to make such order as it thinks fit.

89. Order 47 Rule 1 of the Code provides for filing an application for review. Such an application for review would be maintainable not only upon discovery of a new and important piece of evidence or when there exists an error apparent on the face of the record but also if the same is necessitated on account of some mistake or for any other sufficient reason.

90. Thus, a mistake on the part of the Court which would include a mistake in the nature of the undertaking may also call for a review of the order. An application for review would also be maintainable if there exists sufficient reason therefor. What would constitute sufficient reason would depend on the facts and circumstances of the case. The words “sufficient reason” in Order 47 Rule 1 of the Code are wide enough to include a misconception of fact or law by a Court or even an Advocate. An application for review may be necessitated by way of invoking the doctrine “actus curiae neminem gravabit”.

4. It is submitted that the review application is maintainable even where there is a mistake in the nature of understanding of law and fact by Court or even by an Advocate.

5. This Court is satisfied on this query put up by the learned Advocate as to the maintainability of the application.

6. The learned Advocate fairly concedes to this position. Since there is no appropriate forum available to challenge the order impugned in the petition, the order dated 09.06.2023 stands recalled. The petition is restored to its original position.

**(KISHORE C. SANT)
JUDGE**