

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

WRIT PETITION NO.12771 OF 2023

**MINABAI DHANRAJ PAWAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

....

Mr. Ajay Shinde, Advocate for Petitioner

Mr. D. R. Kale, Government Pleader for Respondent – State

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**CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.**

DATE : 07.11.2023

PER COURT :-

1. The Petitioner before us has put forth amended prayer clauses A to D as under:-

- “A. The writ petition may kindly be allowed at the stage of Admission;*
- B. To quash and set aside the earlier order Dated 29th June 2017 in PIL No.111/2015 passed by this Hon’ble High Court;*
- C. Pending hearing and final disposal of this petition to stay effect and operation of the order Dated 29th June 2017 in PIL No.111/2015;*
- D. Ad-interim relief in terms of prayer clause “C” may kindly be granted.”*

2. While addressing the Court, the learned Advocate for the petitioner submits that this is to be treated as a Review Petition. The reason for seeking a review, is the order passed by this Court (Coram: Dr. Manjula Chellur, CJ and R. M. Borde, J.) dated 29.06.2017 in Public Interest Litigation (PIL) No.111 of 2015.

3. In the said PIL, the PIL Petitioner had put forth prayer clauses b, c and d, as under:-

“(b) Issue writ of mandamus or any other appropriate writ, order or direction in the nature of mandamus directing the respondents to take over the possession of the land bearing Survey No.23/1 (Old Survey No.54) admeasuring 55 Ares situated at village Naiknagar (Murum) in Omerga Taluka of Osmanabad District and for that purpose issue necessary orders.

(c) Issue writ of mandamus or any other appropriate writ, order or direction in the nature of mandamus directing the respondent to utilize the land bearing Survey No.23/1 (Old Survey No.54) admeasuring 55 Area situated at village Naiknagar (Murum) in Omerga Taluka of Osmanabad District for public purpose and particularly for the construction of Primary Health Centre at Naiknagar (Murum), Tq. Omerga, Dist. Osmanabad sanctioned by the

State Government vide order dated 17.01.2013 and for that purpose issue necessary orders.

(d) Pending hearing and final disposal of this Public Interest Litigation, direct the Tahsildar, Omerga, his subordinate officers to take suitable steps for preventing encroachment by way of unlawful possession over the land bearing Survey No.23/1 (Old Survey No.54) admeasuring 55 Area situated at village Naiknagar (Murum) in Omerga Taluka of Osmanabad District and for that purpose issue necessary orders.”

4. We find from the order which is sought to be reviewed that this Court did not entertain the PIL. The Petition was disposed off with costs by forfeiting Rs.5,000/- out of the Rs.25,000/- deposited in this Court and the said amount of Rs.5,000/- was donated to the Library of the High Court Bar Association at Aurangabad.

5. This Court, merely permitted the Petitioner to make a representation to the concerned department on behalf of the villagers with regard to having a Primary Health Centre in the said village. If the representation was received, it was directed that the same could be considered.

6. The learned Advocate for the Petitioner submits that a mutation entry has been effected on 28.06.2017. The report also indicates that all the stake holders were issued with the notice. The mutation entry was in the light of an earlier order dated 05.10.2016 passed by the Tahsildar, Omerga. On the said date, the PIL was merely pending in this Court and the order of the disposal of the PIL is dated 29.06.2017.

7. Needless to state that, the said order is not in the light of any order passed by this Court, much less the order passed in the PIL.

8. The Hon'ble Supreme Court has held in *Lily Thomas vs. Union of India - AIR 2000 SC 1650*, *S. Madhusudhan Reddy vs. V Narayana Reddy and others - 2022 SCC Online SC 1034* and *Pancham Lal Pandey vs. Neeraj Kumar Mishra and others - 2023 SCC Online SC 143*, that a Review Petition cannot be a mode of enabling re-argument. Nevertheless, the fact remains that the Petitioner was apparently not a party to the PIL. So also, the order of this Court disposing of the PIL does not impinge upon the rights of the Petitioner.

9. In view of the above, we do not find that this Review Application could be entertained either as an Civil Application or as a Review Application. The same is therefore, **dismissed**.

[Y. G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]

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