

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

REVIEW PETITION (STAMP) NO.10932 OF 2019

IN

WRIT PETITION NO.4264 OF 2005

ALONG WITH

CIVIL APPLICATION NO.49 OF 2022

(FOR CONDONATION OF DELAY)

IN

REVIEW PETITION (STAMP) NO.10932 OF 2019

IN

WRIT PETITION NO.4264 OF 2005

ALONG WITH

SECOND APPEAL NO.296 OF 2022

Shri. Kisan Bhau Satwekar

.. Petitioner/Applicant

Vs.

Sangli Miraj Kupwad Cities Municipal

Corporation & Ors.

.. Respondents

- Mr. Shikur G. Kudle, for the Petitioner/Applicant.
- Mr. Vikram N. Walawalkar a/w. Ms Sayali Gangal & Mr. Amey C. Sawant, for Respondent No.1–Corporation.
- Ms. A.A. Purav, AGP for Respondent Nos.3 & 4–State.

CORAM : SUNIL B. SHUKRE &

FIRDOSH P. POONIWALLA, JJ

DATE : 22nd AUGUST, 2023

ORAL JUDGMENT (PER : SUNIL B. SHUKRE, J.)
CIVIL APPLICATION NO.49 OF 2022

1. Heard.

2. For the reasons stated in the application, the application for condonation of delay is allowed. Review Petition be registered and placed before the Court forthwith for final hearing.

REVIEW PETITION (STAMP) NO.10932 OF 2019

1. Heard.

2. The main contention of the learned counsel for the Review Petitioner is that there is an error apparent on the face of record in the judgment dated 13.08.2014 passed in Writ Petition No.4264 of 2005 sought to be reviewed and it could be seen from the fact that this Court ignored important aspect, which indicates that the Review Petitioner was and is still in possession of the subject excess land.

3. The submission, however, appears to have been considered at length by this Court while delivering the judgment sought to be reviewed. This could be seen from the detailed discussion made by this Court on the aspect of possession of the Review Petitioner in Paragraphs 14 & 15 of the said judgment. If this is so, it cannot be said that the judgment has manifest error, which is apparent on the face of the record, and therefore, review of the judgment is warranted.

4. Apart from what is stated above, the SLP filed against the said judgment was also dismissed by the Supreme Court. Although, the dismissal of SLP may not be construed as a merger of High Court's

judgment in the order of the Apex Court with dismissal having not been made with reasons, yet, it can be said that the Apex Court did not find any manifest error of fact or law in the judgment sought to be reviewed and this is the reason why it dismissed the SLP.

5. With this view of the matter, the Review Petition stands dismissed.

6. Learned counsel for the petitioner says that since the Review Petitioner is in possession of the subject land, the Corporation must not take any steps to coercively obtain the possession of land. Learned counsel, therefore, prays for grant of interim relief. Learned counsel for the Corporation opposes the request on the ground that no such interim relief was granted when the judgment sought to be reviewed was delivered and inasmuch as possession is already taken over by the Corporation. Considering the fact that no such interim relief was in operation in the petition, it may not be possible for this Court to favourably consider the request of the learned counsel for the petitioners, and therefore, it is rejected.

[FIRDOSH P. POONIWALLA, J.]

[SUNIL B. SHUKRE, J.]