

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
REVIEW PETITION NO. 32 OF 2020
IN
WRIT PETITION NO. 9300 OF 2012

City and Industrial Development ... Review Petitioners
Corporation of Maharashtra.

IN THE MATTER BETWEEN

Shri Moreshwar Vinayak Karve and ... Petitioner
Ors. (Ori. Petitioners)

V/s.

The State of Maharashtra and Ors. ... Respondents

Mr. G.S. Hegde, Senior Advocate a/w. Ms. P.M. Bhansali for review
petitioner.

Mr. Y.S. Jahagirdar, Senior Advocate a/w. Ms. Leena Patil for original
petition in WP/9300/2012 for original petitioner.

Ms. Purva Pradhan I.by Mr. Dinesh Khaire for respondent no.2.-KIDC.

Ms. P. Diwan-AGP for respondent nos. 1, 3 to 6-State.

**CORAM : SUNIL B. SHUKRE &
ABHAY S. WAGHWASE, J.J.**

**DATED : MARCH 21, 2023.
(IN CHAMBER)**

P.C. :

. Heard.

2. By this petition, the petitioner i.e. City and Industrial
Development Corporation of Maharashtra, the original respondent

no.2, in Writ Petition is seeking review of the order passed by this Court on 10th August 2015. By the order dated 10th August 2015, this Court had directed that all the respondents including the review petitioner to pay the amount of compensation as calculated in the light of the decision of another bench of this Court in the case of 'Uttam Ganpat Ubale and Ors. v/s. State of Maharashtra and Ors.'¹ This decision primarily relied on the Government Resolutions dated 1st December 1972 and 2nd April 1979 laying down guidelines for calculating the amount of compensation to be paid in such cases as involved in this matter.

3. It is the contention of the learned counsel for the review petitioner that this Court in directing so did not take into account the effect of the Government Resolution dated 17th April 2003, which was in the nature of cancellation of the guidelines prescribed in Government Resolution dated 1st December 1972 and also Government Resolution dated 2nd April 1979. In other words, the issue raised in this petition is as to whether or not the Government Resolution dated 17th April 2003 had the effect of cancellation of the earlier guidelines.

4. Mr. Jahagirdar, learned senior counsel points out that this point was never raised by the review petitioner when Writ Petition was

1 2012 (4) AIR Bom R 402

finally heard and disposed of by this Court as per the order in question and this was when the point was very much available to the review petitioner. He, therefore, submits that this is not a case of occurrence of any error apparent on the face of the record and therefore the review petition is liable to be dismissed. Alternatively, he submits that in any case the Government Resolution dated 17th April 2003 has been modified by another Government Resolution dated 17th October 2003, a copy of which is tendered by him across the bar, which is taken on record and marked as document 'A' for the purpose of identification.

5. It is not in dispute that in the reply filed by the review petitioner in Writ Petition, the challenge on the above referred ground was not raised. It was not contended by the review petitioner nor argued by its learned counsel then that the Government Resolution dated 17th April 2003 had the effect of canceling the Government Resolution dated 1st December 1972 and also Government Resolution dated 2nd April 1979. It then follows that the learned senior advocate for the original petitioner and respondent herein is right in his submission that this is not a case where any error manifest on record has occurred. On this ground, in our opinion, this petition is liable to be dismissed.

6. Even otherwise, bare perusal of the Government Resolution dated 17th October 2003 indicates that it does modify Government Resolution dated 17th April 2003 and makes eligible certain categories of claimants to receive compensation in terms of the guidelines laid down in the Government Resolution dated 1st December 1972. This review petitioner i.e. respondent no. 2 herein appears to be covered by Category No.3 carved out in Government Resolution dated 17th October 2003 and this Government Resolution says that claimants of this category and other categories, mentioned in the Government Resolution, would have to be paid compensation, in terms of Government Resolution dated 1st December 1972.

7. Thus, even on merits of the matter, no case is made out by review petitioner for making any interference in the matter. The review petition stands dismissed.

(ABHAY S. WAGHWASE, J)

(SUNIL B. SHUKRE , J)