



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

**REVIEW APPLICATION (CIVIL) NO. 180 OF 2024
IN WP/14728/2019**

GOVERDHAN SITARAM PATIL AND OTHERS
VERSUS
BHAGWAT NARAYAN PATIL AND ANOTHER

...
Mr. V. D. Salunke, Advocate for Applicants
Mr. Mahendra B. Kolpe, Advocate for Respondent Nos. 1 And 2
...

CORAM : NITIN B. SURYAWANSHI, J.
DATE : 20th SEPTEMBER, 2024

PER COURT :

1. This application is filed by applicant seeking review of the order dated 07/09/2023, passed by this Court in Writ Petition No.14728/2019, on the ground that at the time of passing of said order, order dated 20/08/1974, passed in Tenancy Case No.14/1974, and other relevant documents were not available with the review applicant. After passing of the order under review, under Right to Information Act said documents were obtained by review applicant.

2. By pointing out observations made by this Court that the order dated 20/08/1974, passed in Tenancy Case No.14/1974, is not placed on record and therefore, it is not clear as to on what basis Tenancy Awal Karkoon informed Talathi and the Talathi has taken Mutation Entry No.120, learned advocate for applicant submits that since this order and other documents are placed on record, they need to be considered and the order needs to be reviewed.

3. Learned advocate for respondents vehemently opposed the prayer stating that the writ petition filed by applicant was dismissed on merits and not on the sole ground that order dated 20/08/1974 was not placed on record. He further points out order dated 08/07/1974, passed by the Additional Tahsildar of Kasabe Tadvale, in proceedings filed by applicant under Section 32-G of the Bombay Tenancy and Agricultural Lands Act, for fixing purchase price of land Survey No.327, which was rejected on the ground that the said land was *Inam Vatan* land on tiller's day i.e. 01/04/1957.

4. Writ petition was filed by applicant challenging the interim injunction order passed in favour of respondents/original plaintiffs, which was confirmed by the District Court in Misc. Civil Appeal No.101/2017. Perusal of the order under review shows that the writ petition was not dismissed on the sole ground that order dated 20/08/1974 was not placed on record. The writ petition was decided on the touchstone of balance of convenience and irreparable loss, and observations made by this Court are of *prima facie* nature.

5. Rival contentions of applicants and respondents in respect of orders dated 20/08/1974 and 08/07/1974 are required to be considered by the Trial Court on its own merit and this aspect cannot be considered in review jurisdiction.

6. Since the arguments advanced in review application were already advanced and considered while hearing the writ petition, there is no merit in the review application and the same is hereby rejected.

7. It is made clear that observations made in the order under review are *prima facie* and are confined to the decision of writ petition, Trial Court shall not be influenced by them. All the contentions of respective parties on merit are kept open, to be agitated before the Trial Court.

(NITIN B. SURYAWANSHI, J.)