



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

**904 REVIEW APPLICATION (CIVIL) NO. 64 OF 2019
IN
WRIT PETITION NO.7399 OF 2018**

**WITH
REVIEW APPLICATION (CIVIL) NO. 65 OF 2019
IN
WRIT PETITION NO.7318 OF 2018**

**WITH
CIVIL APPLICATION NO. 5773 OF 2019
IN
REVIEW APPLICATION NO.65 OF 2019**

**WITH
CIVIL APPLICATION NO. 5768 OF 2019
IN
REVIEW APPLICATION NO.64 OF 2019**

**SHAIKH MANJUR S/O SHAIKH CHAND
VERSUS
KAUSHALYABAI SUKHLAL BAJAJ THROUGH GPA
ASHOK SUKHLAL BAJAJ AND ORS**

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Shri S.G. Dodiya, Advocate i/by Shri Muley Pramod N.,
Advocate for the Applicant.

Shri A.N. Sikchi, Advocate i/by Shri D.R. Jethliya, Advocate, for
Respondent No.1/ Original Petitioner.

Shri B.B. Kulkarni, Standing Counsel for Respondent Nos.2 and
4/ UoI.

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CORAM : RAVINDRA V. GHUGE, J.

DATE :- 28th June, 2024

Per Court :-

1. These Review Applications have been filed with reference to the order dated 03.04.2019, passed by this Court in Writ Petition Nos.7318/2018 and 7399/2018.

2. The Review Petitioner/ original Respondent No.5 has put forth several grounds in the Review Applications. The gist of the said grounds read thus:-

(a) The impugned order was passed inadvertently, without jurisdiction, contrary to established principles of law, equity, and good conscience.

(b) Errors are apparent on the face of the record, including jurisdictional issues and errors in the pleading.

(c) In view of Article 225 of the Constitution of India r/w Rule 18(4) of Chapter XVII of the Bombay High Court Appellate Side Rules that the Single Bench lacked jurisdiction to pass the impugned order.

(d) This Court failed to consider that in view of Section 3(H)(4) of the National Highway Act, which provision is similar to Section 30 of the Land Acquisition Act, the Competent Authority has right to suo moto make a reference to the Court.

(e) This Court has committed several mistakes or errors while passing the order under review. These errors can be summarized as (i) Failure to include the Chief Officer, Municipal Council, Majalgaon as a party since the acquired land Gut No.242 is layout land and road and open space is surrendered to the Municipal Council, (ii) misinterpretation of the Petitioner's status as a stranger in the matter, when the Petitioner is not a stranger, (iii) failure to consider the common use of road and open spaces in the acquired land by the Petitioner, (iv) incorrect findings regarding the specific land parcel under challenge, (v) incorrect statement regarding objections raised under relevant sections of the National Highways Act, and (vi) oversight of provisions in the award regarding compensation disbursement.

(f) The Petitioner has discovered new documents and evidence that were not previously known, which could influence the decision, if considered.

(g) Documents indicate the dispute regarding the ownership and possession over the acquired land, affecting the Petitioner's entitlement to compensation.

(h) This Court committed serious error in setting aside the reference proceedings, which resulted in miscarriage of

justice.

(i) The Respondents' acceptance of the award prevents them from challenging subsequent reference orders.

(j) This Court mistakenly treated both Writ Petitions as concerning the same parcel of land, despite differences that should have been noted.

(k) The findings made by the Court are not supported by pleadings or evidence, thus, there is violation of principles of natural justice.

(l) The Petitioner affirms the ownership rights over a portion of the acquired land, which the Court allegedly failed to consider.

(m) The Municipal Council was a necessary party.

(n) The present application in fact is not Review Application, but an interim application since the Court has yet not taken a decision on the question of costs either it is compensation or on any other ground since the issue is kept open.

(o) The statement made by the Petitioner, which is recorded in paragraph No.7 of the order, is the statement made under fear of costs of Rs.5 lacs.

(p) The original Petitioner suppressed material facts and misled the Court for personal gain.

(q) Since the Petitioner has easementary rights over the layout land, he can raise objection to the acquisition proceedings.

(r) Since the reference is registered and *subjudice* before the Civil Court, the Writ Petition itself becomes infructuous and not maintainable.

(s) The order imposing costs is arbitrary and unreasonable, especially considering subsequent court orders.

(t) The power of review under Article 215 of the Constitution of India is beyond the power prescribed under Section 114 of the Code of Civil Procedure.

3. It is quite apparent from the grounds raised by the Review Petitioner that he is canvassing these Review Petitions practically in the form of a re-hearing on the Writ Petitions itself. When the order dated 03.04.2019 was passed, extensive submissions of the parties were considered and it was noticed that the Review Petitioner, who is said to be a Social Worker and termed by the original Petitioner as a local politician, had raised a frivolous objection on 13.04.2017, only with the intention of

stalling the payment of compensation or about Rs. 3 Crores to a lady who was 81 years of age. This objection application is the bone of contention, wherein, there was not a whisper by this Review Applicant that he himself had any share in Survey No.382. There is not a single sentence that he also has a share in the said parcel of land. It is also not stated that he had an adjoining land.

4. Today, a lengthy argument on the Review Petitions is sought to be made and a host of grounds, as if like the Writ Petitions are re-argued, have been put forth. It would be apposite to reproduce the contents of the objection application dated 13.04.2017, which were before this Court as under:-

"वरील विषयी अर्ज करण्यात येतो की, श्रीमती कौशल्याबाई सुखलाल बजाज यांच्या सर्व्हे नं.३८२ मध्ये १९ एकर जमीन आहे. भूमि अभिलेख कार्यालय माजलगाव यांचेकडून मो.र.क्र. १३३/२००८ दिनांक ०९/०६/२००८ रोजी ०६ एकर ५९ आर ची मोजणी कौशल्याबाई सुखलाल बजाज यांनी केली. राष्ट्रीय महामार्ग २२२ साठी कौशल्याबाई सुखलाल बजाज यांचे कोणतेही क्षेत्र या रस्त्यासाठी संपादीत झालेले नाही. राष्ट्रीय महामार्गासाठी २१७०६ चौ. मी. व १९९ चौ. मी. याची मोजणी मो.र.क्र.२४/२०१५ दिनांक २६/०७/२०१६ रोजी करण्यात आली. हे क्षेत्र

कौशल्याबाई सुखलाल बजाज यांच्या मालकीचे नाही. श्री. सुखलाल बजाज यांनी नगर पालिकेला दिनांक ०१/ ०८/१९८४ रोजी रस्ते व खुली जागा १७२९० चौ मीटर हस्तांतरित केली. त्यातील एक रस्ताही या संपादीत झालेल्या क्षेत्रामध्ये येते. शासनाचे ०२ एकर दगडखाणीचे क्षेत्र या सर्व्हे नंबर मध्ये येते. कौशल्याबाई सुखलाल बजाज यांनी १९ एकर क्षेत्रातून किती एकर क्षेत्र भु अभिन्यास, अकृषि करून घेतले व रस्त्यामध्ये किती क्षेत्र संपादीत झाले या सर्व बाबींची सखोल चौकशी करून श्रीमती कौशल्याबाई सुखलाल बजाज यांना मावेजा देण्यात येवु व शासनाचे नुकसान टाळावे ही नम्र विनंती.”

5. After raising such an objection, the Panchanama was carried out on 24.08.2017, which is at page No.30 of the Writ Petition. The Review Petitioner was present at the time of inspection of the land and when the Panchanama was being carried out, he conveniently disappeared. As a consequence of such conduct of the Review Petitioner, an amount of Rs.3 crores towards compensation payable to the original Petitioner, got blocked and such compensation was not paid to the original Petitioner, who was 81 years old in 2019 (now 87 years and ailing).

6. When the Writ Petitions were considered by this Court, it was noticed that, the loss of interest on the compensation amount, calculating even @ 6% interest per annum, she lost a total interest of Rs.9,00,000/- (Nine lakhs only). It is in this backdrop that this Court granted costs of Rs.5,00,000 (Five lakhs only) to the original Petitioner for compensating her. The original Petitioner showed her magnanimity by donating Rs.25,000 (Twenty Five thousands only) for the treatment of poor patients in the Government Medical College and Hospital (GHATI) at Chhatrapati Sambhajinagar and Rs.25,000/- (Twenty Five thousands only) for the treatment of cancer patients in the Government Cancer Hospital at Chhatrapati Sambhajinagar.

7. The Review Petitioner had pleaded before this Court that the costs may not be imposed. This Court assigned reasons in paragraph Nos.8 and 9 of the order, sought to be reviewed, justifying costs and in fact, though the original Petitioner lost interest of Rs.9,00,000/- (Nine lakhs), this Court granted only Rs.5,00,000/- (Five lakhs). It would be apposite to reproduce paragraph Nos.8 and 9 of the said order, here under:-

- “8. *The learned Senior Advocate takes instructions from the son of the petitioner and submits that the petitioner, who is now 78 years of age and is appearing through her son, who is also 61 years of age, has not received her compensation of Rs. 3 Crores for the last about 12 months only because of the interference of respondent No. 5, who claims to be a politician. He, therefore, prays for interest at the rate of 6% per annum for the last 12 months on the amount of Rs. 3 Crores, which was blocked only because of such vague and ambiguous objections. The said compensation would be around Rs.9 Lakhs. However, on instructions, the learned Senior Advocate submits that the respondent No. 5 should pay the interest of only Rs.5 Lakhs, out of which, the petitioner would donate Rs. 25,000/ for the treatment of the poor patients in the Government Hospital, Aurangabad, and Rs. 25,000/ for the treatment of Cancer patients at Shaskiya Karkarog Rugnalaya, Aurangabad.*
9. *Though, the learned advocate for respondent No. 5 pleads that no interest be charged or no costs be imposed, I am unable to accept his request for two reasons. Firstly, that the petitioner herself reduced the interest from Rs. 9 Lakhs to Rs. 5 Lakhs and secondly, litigants like respondent No. 5, who obstruct any such acquisition matter, at the stage of disbursement of large amounts of money, should learn a lesson that they cannot play with the law and cannot abuse the process of law for personal gains. The panchnama on record indicates that respondent No. 5 appeared before the revenue authorities and declared that though his property is not involved in the acquisition process, he would go to the Court and start a litigation. Learned counsel for respondent No. 5 denies this, despite such revenue records.”*

8. It is well settled in the light of *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 in a matter of review, the parties are not permitted to reopen the Writ Petition and address the Court as if the Writ Petition is being re-argued.

9. In view of the above, both the **Review Applications, being devoid of merits, are dismissed.**

10. A statement is made by the original Petitioner, who is now 87 years of age and said to be bedridden, that she be permitted to withdraw the said amount. The same is kept in a Fixed Deposit Receipt in a nationalized Bank. The Registry of this Court is, therefore, directed to allow the original Petitioner to withdraw the said amount along with interest, except Rs.50,000/- (Fifty thousand) out of which, Rs.25,000/- (Twenty Five thousand) would be transferred to the Government Medical College and Hospital (GHATI) at Chhatrapati Sambhajanagar and 25,000/- (Twenty Five thousand) to the Government Cancer

Hospital at Chhatrapati Sambhajanagar.

11. The pending **Civil Applications** would not survive and **stand disposed off**.

kps

(RAVINDRA V. GHUGE, J.)