



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
REVIEW PETITION (ST) NO. 2722 OF 2024
IN
WRIT PETITION NO. 11997 OF 2016

1. **WILLIAM ANTON D'SOUZA,**
Age 53 yrs., Occu. Agriculture
All R/at – Dharan Grasta Vasahat,
Rukadi, tal. Hatkanagali,
District Kolhapur,

...PETITIONER

~ IN THE MATTER BETWEEN ~

1. **RAJGONDA BHIMGONDA PATIL,**
Age. 75 yrs., Occ : Agri
R/at Uchagaon, Taluka Karveer,
District Kolhapur
2. **BHIMGONDA RAMGONDA PATIL,**
Through I/R. Amor Patil
Age. 34 yrs., Occ : Agri,
R/at Uchagaon Taluka Karveer,
District Kolhapur.

...PETITIONER
(ORIGINAL
PETITIONER)

~ VERSUS ~

1. **STATE OF MAHARASHTRA,**
Through General Administration
Department, Mantralaya, Mumbai
2. **DISTRICT COLLECTOR AND
REHABILITATION OFFICER,**
Kolhapur.

3. **THE LAND ACQUISITION OFFICER - 12,**
Kolhapur, having its Office at
Swarajya Bhavan, Collector Office,
Nagala Park, Kolhapur

...RESPONDENTS
(ORIG.
RESPONDENTS)

ALONG WITH
INTERIM APPLICATION NO. 1686 OF 2024
IN
REVIEW PETITION (ST) NO. 2722 OF 2024
IN
WRIT PETITION NO. 11997 OF 2016

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Kolhapur, having its Office at
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Office,
Nagala Park, Kolhapur.
4. **RAMESH DAYALDAS TANWANI,**
Age Adult, Occu. Business
5. **PARAM ANIL TANWANI,**
Age Adult, Occu. Business
6. **ROHIT AMAR TANWANI,**
Age Adult, Occu. Business
R/a: All In front of Collector
Office, Main Road, Nagala Park,
Kolhapur
7. **GANESH KHIYALDAS DARYANI,**
Age Adult, Occu. Business
8. **KHIYALDAS SAHAJRAM DARYANI,**
Age Adult, Occu. Business

...RESPONDENTS
(ORIG.
RESPONDENTS)

9. **RATNADEVI KHIYALDAS DARYANI,**
Age Adult, Occu. Business
R/a: All at Gopal Agencies,
Main road, Gandhinagar,
Nigadewdi
Uchgaon, Tal : Karveer,
Dist : Kolhapur
10. **ASHA CHANDIRAM DARDA,**
Age Adult, Occu. Business
11. **BAKSHARAM KOUDOMAL DARDA,**
Age Adult, Occu. Business
R/a: All at Baksharam Koudomal,
Gandhinagar main road,
Mudshingi
Tal : Karveer, Dist : Kolhapur
12. **GOVARDHAN JIYALDAS WADHWANI,**
Age Adult, Occu. Business
R/a: Ramchandra Dresses,
Gandhinagar main road,
Uchgaon,
Tal : Karveer, Dist : Kolhapur.
13. **PRAKASH RAMESH WADHWANI,**
Age Adult, Occu. Business
14. **RAMESH MOTUMAL WADHWANI,**
Age Adult, Occu. Business
R/a: All at, Goodluck Stationers
Plot no.413, Behind Vrindavan
Apartment, Mudshingi,
Gandhinagar.
15. **MAHESH HIRDOMAL CHAWLA,**
Age Adult, Occu. Business
R/a: 413/3/A, Chawla colony,
Opp Vrindavan Apartment,
Mudshingi Gandhinagar,
Tal : Karveer, Dist : Kolhapur

16. **VIKI SURESH CHAWLA,**
Age Adult, Occu. Business
R/a: Radhey Radhey colony,
Uchgaon
Gandhinagar.
17. **SHANKAR LAXMANDAS DULHANI,**
Age Adult, Occu. Business
R/a: Saraswati Sadi Depot
Gandhinagar Main road,
Uchgaon,
Tal : Karveer, Dist : Kolhapur.
18. **SACHIN MOHAN HIRANI,**
Age Adult, Occu. Business
19. **KAJAL SACHIN HIRANI,**
Age Adult, Occu. Business
R/a: All at, Vikas Plywood, 175,
Uchgaon, Gandhinagar main
road, Tal : Karveer
Dist : Kolhapur
20. **ANJANA PADMAGONDA PATIL
(DECEASED),**
Through legal heir,
Dhanashree Jeevandas
Ankalkhope
Age Adult, Occu. Business
R/a : Shinde Apartment,
Behind Anantganga Bhavan,
Ambedkar road, Sangli
21. **ANANTMATI BALASO WADKAR,**
Age : 61, Occu.:Housewife
R/a: Dudhgaon, Tal : Miraj,
Dist : Sangli
22. **PUSHPA SHEETAL LANDGE,**
Age Adult, Occu. House wife

- R/a: 1439, A, Foujdar galli
Khanbaugh, Sangli.
23. **VANTA KUMAR SIDHNALE,**
Age Adult, Occu. House wife
R/a: 814, E ward, Jamdar colony
Kadamwadi, Kolhapur.
24. **SUNITA KUMAR CHOUGULE,**
Age Adult, Occu.
Farming/Housewife
R/a: Dattatray Niwas, Near Datta
Mandir, Laat, Dist : Kolhapur.
25. **AMITKUMAR MAHAVEER GAATH,**
Age Adult, Occu.
Business/Farming
R/a: Plot no.159, Ruikar Colony,
E ward, Kolhapur
26. **SUMATI SURENDRA DATTAWADE,**
(Deceased through legal heir)
- 26A. **JAWAHAR SURENDRA DATTAWADE,**
(Deceased through legal heir)
- 26B. **VIJAYALAXMI RAMESH MAGDUM,**
Age Adult, Occu. House wife
R/a: 9th lane, Subhash Road,
Jaysingpur – 416101
Dist : Kolhapur.
- 26C. **SANGITA PATIL,**
Age Adult, Occu. House wife
R/a: House no.20, Janashree
Utkarsh Nagar, Kupwad road,
Opp. Vrudhashram.
Sangli : 416416
27. **NITIN RAMKISHOR DHUT,**
Age Adult, Occu.
Business/Farming

- R/a: Kagwade mala, Ichalkaranji,
Tal : Hatkanangale,
Dist : Kolhapur.
28. **SONALI SANDEEP MEHTA,**
Age Adult, Occu. Business
R/a: 165, Railway line,
Lalit Prakash Bunglow
Near Saath rasta,
Solapur - 413001
29. **RUTIKA MONISHKUMAR AHUJA,**
Age Adult, Occu. Business
R/a: Vasudev Enterprises,
Wholesale Saree, Station road,
Shivaji Market, Shop no.1,
Gandhinagar
Tal : Karveer, Dist : Kolhapur.
30. **KALPANA SHIVAJI KUMBHAR,**
Age Adult, Occu. Business
31. **ABHINAY SHIVAJI KUMBHAR,**
Age Adult, Occu. Business
R/a: All at 175, Uchgaon,
Tal : Kaveer, Dist : Kolhapur.
32. **GAYATRI ADHIK KHAIR,**
Age Adult, Occu. Business
R/a: 175, Uchgaon,
Tal : Kaveer, Dist : Kolhapur.

APPEARANCES

FOR THE PETITIONER IN
RPWST/2722/2024 AND
FOR THE APPLICANT IN
IA/1686/2024,
IA/1687/2024 AND
IA/1688/2024

Mr Yuvraj Narvankar, with Mr
Nikhil N Pawar.

FOR THE PETITIONER IN
WP/11997/2016 AND
FOR THE RESPONDENT IN
RPWST/2722/2024

Mr Pandit Kasar.

CORAM : M.S.Sonak &
Kamal Khata, JJ.

RESERVED ON : 04 October 2024

PRONOUNCED ON : 14 October 2024

JUDGMENT (Per MS Sonak J):-

1. Heard learned counsel for the parties.
2. Review Petition (Stamp) No.2722 of 2024 seeks a review of the judgment and order dated 15 November 2017 in Writ Petition No.11997 of 2016.
3. Since the above Review Petition was instituted six years beyond the prescribed limitation period, Interim Application No.1686 of 2024 seeks to condone the six-year delay in filing the Review Petition.
4. Further, since the Review Petitioner was not even a party in Writ Petition No.11997 of 2016, which was disposed of by judgment and order dated 15 November 2017 for which review is applied, Interim Application No.1687 of 2024 seeks leave to institute this Review Petition.
5. Interim Application No.1688 of 2024 seeks the impleadment of about 28 parties as Respondents in the Review Petition. This Interim Application also seeks an

injunction against the proposed Respondent Nos.4 to 32 from creating any third-party right or interest regarding the property, which was the subject matter of Writ Petition No.11997 of 2016.

6. The State had also filed Review Petition (Stamp) No.19950 of 2022 seeking review of the judgment and order dated 15 November 2017 in Writ Petition No.11997 of 2016. Since the same was filed after a delay of 4 years and 7 months, the State had, vide Interim Application No.13396 of 2024, applied for condonation of delay. By a separate order made today, we dismissed this Application for condonation of delay. However, in our order, we considered the Review Petition on merits, assuming that we were to condone the delay and found that the same was liable to be dismissed. Accordingly, the reasoning in our order dismissing Review Petition (Stamp) No.19950 of 2022 would apply to Review Petition (Stamp) No.2722 of 2024. Based upon the same, Review Petition (Stamp) No.2722 of 2024 would be liable to be dismissed even assuming we were to condone the delay of six years in instituting the same.

7. Initiating this review petition was delayed inordinately by six years. The same is sought to be explained by filing Interim Application No.1686 of 2024.

8. The perusal of Interim Application No.1686 of 2024 indicates that the Applicant has given the history of how his land was acquired and how he was assured rehabilitation on

the land, which was the subject matter of Writ Petition No.11997 of 2016.

9. After that, the Applicant pleaded about some partition and other proceedings before the Revenue Authorities. In paragraph 23 of the Interim Application, the Applicant has pleaded that he had applied to the Government for allotment of the land, which was the subject matter of Writ Petition No.11997 of 2016 under the benefited zone. However, he was informed that the Government has filed the Review Petition in this Court and, therefore, his application would have to be kept in abeyance. Paragraphs 23 or 24 give no details about when such an application was made and that the Applicant was informed about the filing of the Review Petition by the State Government.

10. In paragraph 24 of the Interim Application seeking condonation of delay, there is a vague statement that when the Applicant inquired *“with the concerned Government and in the Hon’ble High Court when he realised that various documents are being suppressed by the Original Petitioner from the High Court.”* There is a further pleading that *“in fact, there is a complete fraud on the part of the Original Petitioner for suppressing material documents from the Court and in addition they have suppressed that he was offered the compensation however he refused to take it.”* In paragraph 25, the Applicant pleaded that he is directly and adversely affected by the order under Review and that, as an aggrieved party, he *“brings fraud before this Hon’ble Court.”*

11. In paragraph 26, there are averments of how the Applicant is a necessary and proper party in the Review Petition and should be permitted to intervene in the Review Petition. Possibly, these averments have been “cut and pasted” from the Application seeking intervention in the State’s Review Petition. In paragraph 27, there is an omnibus statement about how the Applicant has been waiting for justice for years together and for possession and enjoyment of the land. In paragraphs 28 and 29, there are statements that grave harm, loss or prejudice will be caused to the Applicant if “*the impugned order is not recalled.*”

12. After the matter was reserved for orders, learned counsel for the Applicant handed over a compilation of judgments without even seeking any leave to file the same. In any event, in the interest of justice, such authorities are proposed to be considered.

13. In *A. V. Papayya Sastry and others Vs Govt. of A.P. and others*¹, the Hon’ble Supreme Court has held that in case of fraud, which vitiates all judicial acts, any judgment and order, which is the product of fraud can always be recalled. *S. P. Chengalvaraya Naidu (dead) By LRs. Vs Jagannath (dead) By LRs. and others*² provides that fraud vitiates everything. To the same effect are the observations in *K. D. Sharma Vs Steel Authority of India Limited and others*³, *Bhaskar Laxman Jadhav and others Vs Karamveer Kakasaheb Wagh Education Society*

¹ (2007) 4 SCC 221

² (1994) 1 SCC 1

³ (2008) 12 SCC 481

*and others*⁴ holds that the litigant must disclose all material facts, and the litigant cannot disclose which facts are material and which are not.

14. As noted above, there are hardly any pleadings about fraud or suppression in the present case. The bare statement that the original Petitioners did not disclose that they were offered compensation is not sufficient to allege or establish any fraud. Even this allegation may not be correct because this Court, by relying on *Pune Municipal Corporation and Another vs Harakchand Misirimal Solanki and Others*⁵, held that mere compensation tender was not sufficient to save the lapsing of acquisition.

15. *S. Sundaram Pillai and others Vs V. R. Pattabiraman and others*⁶ deals with the concept of “wilful default” in the context of rent control legislation. The context in which this decision was included in the compilation of judgments is unknown because no decisions were cited in the course of arguments by Mr Narvankar, learned counsel for the Applicant.

16. *State of Bihar and others Vs Ramesh Prasad Verma*⁷ is possibly included in the compilation of judgments because it holds that if any clarificatory or declaratory explanation is provided in the statute, the same will typically have retrospective operation, especially in the absence of any indication to the contrary in the parent Act. This decision is

⁴ (2013) 11 SCC 531

⁵ (2014) 3 SCC 183

⁶ (1985) 1 SCC 591

⁷ (2017) 5 SCC 665

not an authority for the proposition that a review would be maintainable because *Indore Development Authority Vs case. Manoharlal and Others*⁸ had only clarified the legal position.

17. *Zile Singh Vs State of Haryana and others*⁹ was also possibly included in the compilation of judgments to explain the concept of retrospective operation of statutes. This decision, with respect, will not apply because of the Explanation to Order XLVII Rule 1 of Code of Civil Procedure, 1908 ("CPC"), which, Mr Narvankar tried very hard to sidestep given the decision of the Hon'ble Supreme Court in the case of *Government of NCT of Delhi and another vs K. L. Rath Steel Limited and others*¹⁰.

18. *T. Arivandandam vs. T. V. Satyapal and another*¹¹ is a decision dealing with the scope of Order VII Rule 11 of CPC. Therefore, the context in which it is included in the compilation of judgments is not known. *State of Gujarat and Ors. Vs Jayantibhai Ishwarbhai Patel*, by relying upon *Indore Development Authority vs Manoharlal* (supra), interferes with the Gujarat High Court's decision holding that there was lapsing. This was not a case of any review based upon the subsequent ruling in *Indore Development Authority vs Manoharlal* (supra).

19. Thus, even upon due consideration of all the authorities belatedly submitted by learned counsel for the Applicant, no

⁸ (2020) 8 SCC 129

⁹ (2004) 8 SCC 1

¹⁰ (2024) 7 SCC 315

¹¹ (1977) 4 SCC 467

case is made to condone the delay or allow the Review Petition.

20. The decisions of the Hon'ble Supreme Court in the cases of *K. L. Rath Steel Limited* (supra) and *Delhi Development Authority vs. Tejpal and Others*¹² are also sufficient to dismiss the Application for condonation of delay and, consequently, the Review Petition. As noted earlier, even if we were to condone the inordinate or unexplained delay of six years, there would be no merit in the Review Petition, which, otherwise, would have to be dismissed.

21. On a detailed consideration of the Applicant's Interim Application seeking condonation of delay of six years, we find that the Applicant shows no sufficient cause. Most of the averments in the Interim Application have nothing to do with the delay in instituting the Review Petition. Besides, the remaining averments are wholly vague and bereft of any particulars. Based on such averments, no cause can be said to have been shown to explain the inordinate delay of six years in instituting this Review Petition. Accordingly, Interim Application No.1686 of 2024 is liable to be dismissed and is hereby rejected.

22. The detailed reasoning in the order disposing of the State's Application for condonation of delay or the Review Petition (Stamp) No.19950 of 2022 applies to the present matter. Therefore, by adopting the said reasoning, the Application for condonation of delay is liable to be dismissed.

¹² (2024) 7 SCC 433

23. For all the above reasons, we dismiss Interim Application No.1686 of 2024, seeking condonation of delay and, as a consequence, Review Petition (Stamp) No.2722 of 2024. We clarify that even if we were to condone the delay of six years, the Review Petition was still liable to be dismissed on merits.

24. The other Interim Applications do not survive and are disposed of.

(Kamal Khata, J)

(M. S. Sonak, J)