



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

**REVIEW APPLICATION NO. 201 OF 2024
IN
WRIT PETITION NO. 2421 OF 2023**

Tabassum Hussain Jamadar .. Applicant

Versus

Chhatrapati Sambhajanagar Municipal
Corporation through its Commissioner
and others .. Respondents

Shri Devdatt P. Palodkar, Advocate for the Applicant.
Shri Anand P. Bhandari, Advocate for the Respondent Nos. 1 and
2.

**CORAM : SHAILESH P. BRAHME, J.
DATE : 19TH MARCH, 2025.**

FINAL ORDER :

. Heard both sides.

2. Applicant is seeking review of the judgment and order dated 19th April, 2024 passed in Writ Petition No. 2421 of 2023. It is submitted that the observations in para Nos. 7 and 10 of the judgment that rejection of application Exhibit 56 was not challenged, hence application Exhibit 85 was not maintainable, is a mistake apparent on the face of record. It is further submitted that findings in paragraph No. 9 that applicant could have taken recourse to Right to Information Act is another mistake or perversity on the face of the record. It is further

submitted that adverse inference in the present case is not possible to be drawn, unless application like at Exhibit 85 is allowed and it is not responded to.

3. Per contra, Mr. Anand Bhandari, learned advocate for respondent Nos. 1 and 2 submits that the above grounds are not within purview of Order 47 read with Section 114 of the Code of Civil Procedure. This Court has not foreclosed the doors of the applicant in securing the documents. Application Exhibit 56 was not U/O 18 Rule 3A of the C. P. C. as is tried to be represented in the review. He would further submit that the applicant is unnecessarily dragging the proceedings. She is encroacher and illegally in possession of the premises. The practice of calling upon the officers of the corporation to produce the documents in this manner should be deprecated.

4. I have considered rival submissions of the parties. Interlocutory order rejecting application Exhibit 85 was challenged in the writ petition by the applicant. She is plaintiff, seeking relief of declaration and injunction. The respondent/corporation contended that she is an encroacher.

5. I am guided by the latest view of the Supreme Court defining scope of review as is laid down in the matter of S. Madhusudhan Reddy Vs. V. Narayana Reddy reported in *2022 (4) SCC 464*.

6. Almost all the grounds which are pressed into service by the applicant in the present review are in the nature of overruled

submissions. I have dealt with those submissions elaborately in the order under review. It was open for the applicant to challenge the order in question before the appellate forum.

7. Application at Exhibit 56 was not under Order 18 Rule 3A of the C. P. C., which is tried to be impressed by the applicant. The purport of the order passed on 16.12.2022 while rejecting application Exhibit 56 would be without adducing the evidence it was not proper to call upon a witness of the respondent/corporation to produce the documents. Though it is possible to infer that applicant could file such application at the subsequent stage of the proceedings, by that itself would not permit her to file application Exhibit 85.

8. I have already recorded that the remedies of the applicant are not foreclosed. I do not find that any grave prejudice is caused to the applicant by the impugned order. I find that no case is made out to cause any interference in the review jurisdiction. The review application is rejected.

[SHAILESH P. BRAHME, J.]

bsb/March 25