



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

**REVIEW APPLICATION NO. 43 OF 2025
IN
WRIT PETITION NO. 9750 OF 2023**

Nyalasingh s/o. Mahadu Pandhare .. Applicant

VERSUS

Deorao s/o. Laxman Kandalwad and Ors. .. Respondents

Mr. Sanjeeva Deshpande, Sr. Advocate a/w. Mr. Swpnil Joshi, Mr. Ganesh Jadhav, Mr. Swapnil Patnurkar, Ms. Sakshi Muley i/b. J.P. Legal Associates, Advocates for the applicant.

Mr. N.B. Khandare, Sr. Advocate i/b. Mr. Ranjit D. Gaikwad, Advocate for respondent Nos. 1 to 4.

Mr. S.B. Jadhav, AGP for the respondent-State.

CORAM : KISHORE C. SANT, J.
RESERVED ON : 02.07.2025
PRONOUNCED ON : 21.07.2025

ORDER :-

01. This application is filed seeking review of judgment and order passed by this Court in Writ Petition No. 9750 of 2023 dated 03.10.2023. By way of the said judgment, this Court allowed the Writ Petition filed by present respondent Nos. 1 to 4. This applicant was respondent No.1 in the Writ Petition. This Court by way of the order in the said Writ Petition, held that the applicant failed to prove his relationship with the protected tenant, namely, Jalva Mansa Pandhare. On that, the judgment of the learned Maharashtra Revenue Tribunal came to be quashed and set aside.

02. It is case of the applicant that there was challenge to the order passed in the Writ Petition by filing SLP (Diary) bearing No. 44450 of 2023, in the Hon'ble Apex Court, however, same came to be dismissed vide order dated 18.03.2024. It is, thereafter, the present application is filed.

03. Learned Sr. Advocate Mr. Deshpande for the applicant submits that the main ground raised in the petition is that while allowing the Writ Petition, this Court recorded findings that Jalva Mansa Pandhare was a protected tenant, however, it is held that the present applicant has no right to land as no relationship with said Jalva Mansa is proved. According to the applicant, this finding is recorded against the record. Jalva Mansa was declared as a protected tenant under section 38-E of the Hyderabad Tenancy and Agricultural Lands Act. A certificate under section 38-A of the said Act shall prevail upon any other proceedings. Attention is drawn to the certificate issued by the Authority i.e. Tenancy Tribunal, Circle Islapur, Tal. Kinwat. It is further submitted that in para 8 of the judgment, this Court has observed that in a certificate issued by the Circle Officer, there is no mention of the relationship of the present applicant with Jalva Mansa Pandhare. Thus, it is held that the Tahsildar

has no authority to cancel Entry No. 112. It is submitted that this observation about relationship is against the record. Attention of this Court is drawn to the Heirship Certificate issued by the Civil Judge, Junior Division, Kinwat, under Rule 2 of the Bombay Regulation Act, 1987, in MA (RJE) No. 278 of 2019. It is submitted that the Heirship Certificate issued by the Civil Court is binding on all the parties. It is thus, submitted that the judgment is passed on this erroneous finding. Had the finding been recorded correctly, the petition would have been dismissed. It is submitted that there is clearly an error apparent on record. The judgment needs to be recalled.

04. Learned Sr. Advocate Mr. Khandare submits that this Court while deciding the Writ Petition has rightly considered all the aspects involved in the matter. In para 11 of the judgment, though it is recorded that the respondent in all fairness has submitted that the matter be remanded for giving fresh hearing to the parties, it was only a submission. The reasoning part is in para Nos. 13 and 14 of the judgment. He further submits that the declaration under section 38-E of the HTAL Act itself was set aside. If that declaration in the name of Jalva Mansa as protected tenant itself is set aside, then the relationship with said Jalva Mansa will not change fate of the petition. As such, the

relationship is not material. He further submits that this Court has considered the earlier litigation, which attained finality in the second appeal in this Court. He submits that the finding is recorded totally on the basis of record and no ground is made out to entertain this Review Application.

05. In rejoinder, learned Sr. Advocate Mr. Deshpande submits that the Certificate under section 38-E of the HTAL Act in favour of Jalva Mansa is intact and therefore the observations about relationship would change fate of the petition.

06. This Court has heard the parties. The basic question in the Review Application is as to whether this Court has committed any error on the face of record. On going through the judgment under review, it is seen that this Court has clearly made observation in para No.14 of the order under review, that in Succession Certificate there is no mention of relationship of the respondent with the original protected tenant Jalva Mansa Pandhare. This Court finds that the order passed by the learned Civil Judge, Junior Division, Kinwat in MA (RJE) No. 278 of 2019 was on record in the petition, which appears to have escaped attention of this Court. Had such fact been considered, in the opinion of this Court, it

would have changed fate of the Writ Petition. This Court, therefore, finds that present application needs to be allowed. Hence, following order :-

ORDER

- (i) The Review Application is allowed.
- (ii) The judgment and order dated 03.10.2023 passed in Writ Petition No. 9750 of 2023 stands recalled.
- (iii) The Writ Petition be placed before the appropriate Court for hearing afresh.

[KISHORE C. SANT, J.]