



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

**REVIEW APPLICATION NO. 3 OF 2025
IN WRIT PETITION NO. 9228 OF 2023**

Godawari Marathwada Industrial Development .. Applicant
Corporation, Aurangabad.

VERSUS

The State of Maharashtra and Others .. Respondents

Mr. R.N. Dhorde, Sr. Advocate i/b. Mr. R.C. Patil, Advocate for the applicant.

Mr. P.P. Dawalkar, AGP for the respondent-State.

Mr. V.D. Sapkal, Sr. Advocate i/b. Mr. A.V. Indrale Patil a/w. Mr. A.D.Khedkar, Advocate for the respondents/petitioners in WP.

CORAM : KISHORE C. SANT, J.
RESERVED ON : 06.03.2025
PRONOUNCED ON : 06.05.2025

ORDER :-

01. This application is filed seeking review of the order passed by this Court dated 21.10.2024, in Writ Petition No.9228 of 2023. This Court by the said order allowed the Writ Petition filed by the present respondents/original claimants in land acquisition reference. The Writ Petition was filed challenging an order passed by the learned Land Acquisition Officer, Ahmadpur, Dist. Latur, in Case No. San.Kra. 2022/LA/CR-18 dated 04.05.2023. It was grievance of the respondents that inspite of Hon'ble Apex Court directing the Authorities to calculate

the amount of compensation along with interest and to take independent decision, it was made clear by the Hon'ble Apex Court that the order that was impugned in the SLP will not stand in the way of SLAO while deciding the matter. It was the case of the petitioners that inspite of this order, the learned SLAO, on extraneous considerations withheld the amount of the claimants. In the said Writ Petition, this Court quashed the order passed by the SLAO by defreezing the account with condition that the petitioner shall keep 25% of the amount in the fixed deposit till further orders from the Competent Authority. The applicant/respondent in the Writ Petition, therefore, now approached this Court.

02. Mr. Dhorde, learned Sr. Advocate for the applicant vehemently argued that though the First Appeals were allowed by this Court, challenging the references, no decree was prepared. The decree was not signed by both the Advocates. Without signature of both the Advocates, the decree could not have become final. When the decree was not final, there was no question of petitioner's withdrawing amount, without specific orders from this Court. In view of Chapter II Rule 3 (i) to (v) of the CPC, the decree is still not drawn. By order dated 04.07.2020, the Authorities directly deposited the amount into the accounts of the petitioners only on receiving telephonic information from

the office of this Court. He criticizes this aspect, saying that it is not clear as to who made telephone call informing the order passed by this Court. The Authorities were not expected to merely act on telephonic communication. The action of the Authorities, thus, appears to be suspicious.

03. He further submits that by letter dated 22.10.2022, addressed to the SDO and Land Acquisition Officer, Ahmadpur, the SDO, Minor Irrigation, Ahmadpur had given explanation to the points raised by the Sub-Divisional Officer, Ahmedpur, after judgment of this Court. A representation is sent by the claimants and their Advocate requesting not to take any coercive action against the claimants. This representation was in respect of assessment of interest on the compensation awarded by the High Court under section 34 of the Land Acquisition Act and in view of the order passed by the Hon'ble Apex Court in SLP No. 13821 of 2022. He submits that before the Hon'ble Apex Court, the position as regards the interest that it would stop running from the moment the amount is deposited in the Court is not pointed out. On pointing out this, he submits that the amount thus withdrawn without there being any formal decree drawn pursuant to the decision in the First Appeal by this Court. The amount is wrongly withdrawn in excess. The amount was

already deposited with interest. Till now, there is no application for drawing formal decree. The withdrawal of amount is, therefore, illegal.

04. Learned Sr. Advocate Mr. Sapkal for the respondents vehemently submits that the points which are being argued were not urged before this Court while deciding the Writ Petition. In the Writ Petition only question that was required to be dealt with was the order passed by the SLAO of freezing the accounts and not allowing the petitioners to withdraw the amount. From the order of the Hon'ble Apex Court, it is clear that the question that was to be considered was only of calculations and except that the Authorities were not to consider any other aspect. He further submits that no error apparent on the face of record is pointed out in the review application. The review application is thus not maintainable. He relies on the judgments in the case of **Tamil Nadu Electricity Board Vs. N. Raju Reddiar reported in 1997 AIR (SC) 1005** and in the case of **S. Madhusudhan Reddy Vs. V. Narayana Reddy and Others, reported in (2022) 17 SCC 255**. He lastly submits that now the order is already complied with. Whatever is argued now in this Court was never pointed out to the Hon'ble Apex Court. If at all the applicants are aggrieved by the order sought to be reviewed, they could have challenged the said order before the Hon'ble

Apex Court.

05. In the Writ Petition, this Court was dealing with the order passed by the learned SLAO, thereby the SLAO had defreezed the accounts. The petitioners had come to this Court pointing out the order passed by the Hon'ble Apex Court in SLP No. 13821 of 2022. The order of the Apex Court was considered, which is reproduced below :-

"Heard learned counsel for the parties.

The only issue which arises for consideration in this petition about the calculation of the interest to which the claimants are entitled for the period when the amount was lying in the deposit in the High Court during the pendency of the petition.

A simple process of calculation has unnecessarily been dragged before this Court. In the circumstances, we deem it necessary and in the interest of justice, to permit the parties to approach the SLAO along with their calculation of the amount payable requiring the SLAO to take the decision on the same in accordance with law.

Learned counsel for the respondents states that he would be entitled to interest on the excess amount which was withdrawn by the petitioners almost two years back. It shall be open for the parties to raise all such pleas before the SLAO and the same shall be decided in accordance with law and the existing facts. In case parties are dissatisfied with calculation arrived at by the SLAO it shall be open to them to approach the higher forum in accordance with the provisions in law.

The impugned order passed by the High Court shall not stand in the way of SLAO in deciding the matter, as directed above. He shall take independent decision in accordance with law without being influenced by any observation made by the High Court.

The SLAO shall make endeavour to take the decision in the matter as expeditiously as possible.

The special leave petition is disposed of accordingly

Pending application (s), if any, also stand disposed of."

. In view of the order passed by the Hon'ble Apex Court, this Court held that when the Hon'ble Apex Court had directed the SLAO only to make the calculations and to disburse the amount, in such case whether the SLAO was justified in passing the order impugned in Writ Petition.

06. The scope of the Writ Petition was thus very limited that was to see the order passed by the SLAO in the light of the order passed by the Hon'ble Apex Court, whatever is now sought to be argued of drawing of decree etc. was never argued before the Hon'ble Apex Court nor it was argued before this Court in Writ Petition. By way of this Review Application, this Court clearly finds that the applicant is now trying to enlarge the scope of the Writ Petition.

07. Learned Sr. Advocate Mr. Sapkal rightly relied upon judgment in the case of **S. Madhusudhan Reddy [Supra]**. The Hon'ble Apex Court considered the scope of the review. It also distinguished the erroneous decision from the error apparent on the face of record. Para 26 of the said judgment reads as under :-

"26. After discussing a series of decisions on review jurisdiction in

Kamlesh Verma v. Mayawati and Others, this Court observed that review proceedings have to be strictly confined to the scope and ambit of Order XLVII Rule 1, CPC. As long as the point sought to be raised in the review application has already been dealt with and answered, parties are not entitled to challenge the impugned judgment only because an alternative view is possible. The principles for exercising review jurisdiction were succinctly summarized in the captioned case as below:

"20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

20.1. When the review will be maintainable:

- (i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;
- (ii) Mistake or error apparent on the face of the record;
- (iii) Any other sufficient reason.

The words "any other sufficient reason" have been interpreted in Chajju Ram Vs. Neki, and approved by this Court in Moran Mar Basselios Catholicos Vs. Most Rev. Mar Poulouse Athanasium & Ors. to mean "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in Union of India Vs. Sandur Manganese & Iron Ores Ltd. & Ors.

20.2 When the review will not be maintainable: -

- (i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.
- (ii) Minor mistakes of inconsequential Import.
- (iii) Review proceedings cannot be equated with the original hearing of the case.
- (iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.
- (v) A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only for patent error.
- (vi) The mere possibility of two views on the subject cannot be a ground for review.

(vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.

(ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negated."

08. Keeping Para 26 of the reported judgment in mind, this Court has to consider whether any case is made out in the application showing any error apparent on the face of record. While arguing the review application, what is mainly argued is that the amount is directed to be disbursed by defreezing the account, as per the direction of the Hon'ble Apex Court. The scope of the Writ Petition was only to consider that aspect. Nothing was argued about drawing of formal decree by this Court. The Appellate Side Rules for that purpose were never argued before this Court. Neither it was argued before the Hon'ble Apex Court. Now taking hyper-technical approach that too in the Review Application, this Court feels is not permissible. In para 26 of the said judgment, the Hon'ble Apex Court considered the principles from the judgment in the case of **Kamlesh Verma Vs. Mayawati, (2013) 8 SCC 320**.

09. While parting with the review, this Court needs to observe that this Review Application is filed not by the Advocate appeared in the

Writ Petition for the present applicants, but is filed by another Advocate. The Hon'ble Apex Court in the judgment in the case of **Tamil Nadu Electricity Board [supra]** has deprecated the practice of filing application by another Advocate long back, by dismissing the application by imposing costs. In the present case also the Review Application is filed by an Advocate, whereas in the Writ Petition, this applicant was represented by some other Advocate. For this reason also, this Review Application need not be entertained.

10. For the reasons discussed above and as this Court does not find any error apparent on the face of record, this Court is of the firm view that the Review Application deserves to be dismissed. Hence, the Review Application is dismissed.

[KISHORE C. SANT, J.]