



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

12 CIVIL APPLICATION NO. 3705 OF 2025
IN RAST/9150/2025
IN
WRIT PETITION NO.5039/2020
WITH
REVIEW APPLICATION STAMP NO.9150 OF 2025
IN
WRIT PETITION NO.5039 OF 2020

Narayan Pandurang Udage And Another
VERSUS
The State Of Maharashtra And Others

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Advocate for Applicant : Mr. Yogesh C. Patil
AGP for Respondents: Mr. V S Badakh
Advocate for Respondents : Mr. C. V. Thombre

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CORAM : S. G. CHAPALGAONKAR, J.
Dated : April 28, 2025

ORDER :-

CA for Delay :-

1. Heard learned advocates appearing for the applicant in civil application no.3705 of 2025.
2. For the reasons as stated in the application, application is allowed and **disposed of**.

Review application :-

1. Heard learned advocate appearing for the applicants. The applicants seeks review of the order dated 23.7.2024 passed in writ petition no.5039/2020.

2. Learned advocate appearing for the applicants submits that order under review is passed in absence of the applicants/original respondent nos.5 and 6. He submits that, although, they had engaged an advocate to defend their case, he failed to cause appearance in the matter. Eventually, order under review is passed. Learned advocate appearing for the applicants would further submit that, incorrect submissions were advanced on behalf of petitioner that delay is condoned by the Hon'ble Minister in absence of separate application. In fact, application for delay condonation was moved before the Hon'ble Minister, on which order has been passed. Thirdly, he submits that, in similar set of facts in writ petition no.3029 of 2011 this court was pleased to remand matter to Hon'ble Minister for fresh consideration. On these three counts, learned advocate urges to review/recall the order and consider the writ petition on merits.

3. Learned AGP appearing for the respondents submit that there are no good grounds for review.

4. Having considered the submissions advanced, apparently order passed by the learned Minister in exercise of the powers under section 257 of the Maharashtra Land Revenue Code was under challenge in writ petition, by which delay of nine years was condoned. This Court, taking note of law laid down by the Supreme Court of India in case of **Ram Chand : Ved Prakash Vs. Union of India** reported in 1994 (1) SCC 44, **State of Punjab and others Vs. Bhatinda District Cooperative Milk Producers Ltd.**, reported in (2007) 11 Supreme Court Cases 363, as well as **Santoshkumar Shivgonda Patil and others Vs.**

Balasaheb Tukaram Shevale and others reported in 2009 (9) SCC 352 took a view that the powers under section 257 can be exercised within the reasonable period and such reasonable period cannot exceed beyond three years.

5. In the present case, proceedings under section 257 was entertained after nine years and, therefore, said order has been quashed and set aside by this Court.

6. So far as grounds of review canvassed on behalf of the applicants, it can be noted that none of them constitutes good ground for review. The Hon'ble Supreme Court of India, in case of **S.Murali Sundaram Vs. Jothibai Kannan and others reported in (2023) AIR SC Civil 1529** has laid down parameters for exercise of review, which reads thus :-

“5.1 While considering the aforesaid issue two decisions of this Court on Order 47 Rule 1 read with Section 114 CPC are required to be referred to? In the case of *Perry Kansagra (supra)* this Court has observed that while exercising the review jurisdiction in an application under Order 47 Rule 1 read with Section 114 CPC, the Review Court does not sit in appeal over its own order. It is observed that a rehearing of the matter is impermissible in law. It is further observed that review is not appeal in disguise. It is observed that power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. It is further observed that it is wholly unjustified and exhibits a tendency to rewrite a judgment by which the controversy has been finally decided. After considering catena of decisions on exercise of review powers and principles relating to exercise of review jurisdiction under Order 47 Rule 1 CPC this Court had summed upon as under :

- “(i) Review proceedings are not by way of appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC.
- (ii) Power of review may be exercised when some mistake or error apparent on the face of record is found. But error on the face of record must be such an error which must strike one on mere looking at the record and would not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.
- (iii) Power of review may not be exercised on the ground that the decision was erroneous on merits.
- (iv) Power of review can also be exercised for any sufficient reason which is wide enough to include a misconception of fact or law by a court or even an advocate.
- (v) An application for review may be necessitated by way of invoking the doctrine *actus curiae neminem gravabit*.”

7. However, this Court do not find that any such ground is made out in this case. No error apparent on face of record is shown in the order. Absence of learned advocate when order under review is passed cannot be a ground to review the order. In the result, the Review Application stands **rejected**.

(S. G. CHAPALGAONKAR, J.)

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