



R

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO. 156 OF 2024

IN

WRIT PETITION NO. 9361 OF 2021

The State of Maharashtra and Others.

... Petitioners.

V/s.

Manavel Motis D'souza and Others.

... Respondents.

WITH

REVIEW PETITION NO. 162 OF 2024

IN

WRIT PETITION NO. 9362 OF 2021

The State of Maharashtra and Others.

... Petitioners.

V/s.

Mr. Lois Bastayav D'souza and Others.

... Respondents.

WITH

REVIEW PETITION NO.155 OF 2024

IN

WRIT PETITION NO. 9367 OF 2021

The State of Maharashtra and Others.

... Petitioners.

V/s.

Prabhakar Govind Mundale and Others.

... Respondents.

WITH

REVIEW PETITION NO. 158 OF 2024

IN

WRIT PETITION NO. 9363 OF 2021

The State of Maharashtra and Others.

... Petitioners.

V/s.

Ms. Eliza Paolu D'souza and Others.

... Respondents.

**WITH
REVIEW PETITION NO. 160 OF 2024
IN
WRIT PETITION NO. 9383 OF 2021**

The State of Maharashtra and Others. ... Petitioners.

V/s.

Mr. Lahu Anant Palambe and Others. ... Respondents.

**WITH
REVIEW PETITION NO. 163 OF 2024
IN
WRIT PETITION NO. 9364 OF 2021**

The State of Maharashtra and Others. ... Petitioners.

V/s.

Machhindranath Mahadev Gosavi and Others. ... Respondents.

**WITH
REVIEW PETITION NO. 159 OF 2024
IN
WRIT PETITION NO. 9378 OF 2021**

The State of Maharashtra and Others. ... Petitioners.

V/s.

Subhash Mahadev Chavan and Others. ... Respondents.

**WITH
REVIEW PETITION NO. 161 OF 2024
IN
WRIT PETITION NO. 9365 OF 2021**

The State of Maharashtra and Others. ... Petitioners.

V/s.

Hanuman Shivaram Shinde and Others. ... Respondents.

Mr. Kedar B. Dighe, Addl. G.P. for the Review Petitioner.
Mr. Pradeep Sancheti, Senior Counsel along with Mr. Sanjeev Sawant, B. K. Barve, Pallavi Balli, Sandip Barve and Santosh Wagh i/b B. K. Barve & Co.,
for the Respondents.

**CORAM : A. S. GADKARI AND
SHARMILA U. DESHMUKH, JJ.**

DATE : 21st February 2025.

P.C. :

- 1) By the afore-noted Review Petitions, the Petitioners, i.e., the State of Maharashtra and its functionaries are seeking review of the Order dated 10th November 2022 passed in Writ Petition No.9367 of 2021 and connected Petitions.
- 2) Heard Mr. Dighe, learned Additional Government Pleader for the Review Petitioners and Mr. Sancheti, learned Senior Counsel for the Respondents. Perused the entire record.
- 3) The afore-noted Review Petitions are filed predominantly on the ground that, if the directions issued by this Court are implemented, then the exchequer of the State of Maharashtra would suffer heavy expenditure.
- 4) Mr. Dighe also submits that, some of the persons who were and are not eligible to get compensation either monetary or alternate land will also get benefited by the said order. He submits that, under Order 47 Rule 2 of the Code of Civil Procedure, 1908, the Petitioners are entitled to produce on

record even the subsequent events which came to their notice after the disposal of Writ Petitions. He, therefore, requested this Court to review the Order dated 10th November 2022.

5) A minute perusal of the record indicates that Mr. Mahadev Shrirang Kadam, Executive Engineer, Minor Irrigation Division, Oros, District Sindhudurg had filed an Affidavit dated 20th October 2022 in the said Petitions. Undoubtedly, he has given many admissions in it. According to us, the said admissions were given as per the record maintained by the said Authority and there is no reason to doubt the authenticity of statements made by him. Perusal of the Order under review would indicate that, the learned Additional Government Pleader who appeared on behalf of the State on 10th November 2022 made statements on instructions from the concerned, which are recorded in the said Order.

6) There is no reason for us to raise even an iota of doubt regarding the *bona fide* of the concerned persons making solemn statements before this Court on 10th November 2022. At this stage, useful reference can be made to the decision of the Hon'ble Supreme Court in the case of *State of Maharashtra v. Ramdas Shrinivas [(1982) 2 SCC 463]* and in particular paragraph 4 thereof Their Lordships have held and observed thus:

“.....We are afraid that we cannot launch into an inquiry as to what transpired in the High Court. It is simply not done. Public Policy bars us. Judicial decorum

restrains us. Matters of judicial record are unquestionable. They are not open to doubt. Judges cannot be dragged into the arena. "Judgments cannot be treated as mere counters in the game of litigation." We are bound to accept the statement of the Judges recorded in their judgment, as to what transpired in court. We cannot allow the statement of the judges to be contradicted by statements at the Bar or by affidavit and other evidence. If the judges say in their judgment that something was done, said or admitted before them, that has to be the last word on the subject. The principle is well settled that statements of fact as to what transpired at the hearing, recorded in the judgment of the court, are conclusive of the facts so stated and no one can contradict such statements by affidavit or other evidence. If a party thinks that the happenings in court have been wrongly recorded in a judgment, it is incumbent upon the party, while the matter is still fresh in the minds of the judges, to call attention of the very judges who have made the record to the fact that the statement made with regard to his conduct was a statement that had been made in error. That is the only way to have the record corrected....."

7) As far as submission under Order-47 Rule-2 of CPC is concerned, the record which now the Petitioner-State wants to produce before us was very well within its knowledge and custody even on 10th November 2022.

However, the wisdom which now prevails upon the Petitioner-State did not prevail upon it on 10th November 2022. It is not the case of the Petitioner-State that despite due diligence, they did not get the said record on 10th November 2022 and therefore at such belated stage, i.e., approximately after 2 and ½ years the same is brought before this Court as if we are hearing the petitions *de novo*.

8) After perusing the entire record and the Order under review, we are of the confirmed opinion that, whatever was pleaded before this Court either by way of pleadings in writing or while advancing arguments have been taken into consideration while passing the Order under review dated 10th November 2022. We do not find any error apparent on the face of record. The Order under review is passed as per the record produced before this Court and Oral submissions advanced and therefore we are not inclined to review the said Order.

9) According to us, the Review Petitions have no merits and are accordingly dismissed.

(SHARMILA U. DESHMUKH, J.)

(A.S. GADKARI, J.)