

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**REVIEW PETITION NO. 3 OF 2025
IN
MISC. CIVIL APPLICATION NO. 253 OF 2022**

Sheetal Nilesh Dahanukar	}	
Age- 40 years, Occupation – Housewife	}	
Residing at Flat No. 2605, Wing 13, Casa	}	
Sereno, Lodha Amara, Kolshet Road,	}	
Thane, West- 400 607	}	...Petitioner

Versus

Nilesh Purshottam Dahanukar	}	
Age- 45 Years, Occupation – Business	}	
Residing at Flat No. 7, Shree Ram	}	
Apartment Anandvan Colony, Near Boys	}	
Town School, Nashik-422005	}	...Respondent

Mr. Pritesh Burad with Mr. Amey Kanse and Mr. Kaustubh Kachey i/b Mr. Pushkar Naik, for the Petitioner.

Mr. Nitin Gangal a/w Ms Namita Mestry and Ms Prapti Karkera, for the Respondent.

CORAM: MANJUSHA DESHPANDE, J.

DATE : 30th SEPTEMBER 2025

P.C:

1. The Petitioner who is the applicant in Miscellaneous Civil Application No. 253 of 2022, is seeking review of the order passed by this court on 1st August 2025. The Petitioner is the wife of the Respondent who had sought transfer of pending proceedings from the Family Court, Nashik and Joint Civil Judge, Senior division, Nashik, to the Family Court, Thane and Civil Judge Senior Division, Thane respectively. After hearing the parties exhaustively, the order rejecting her application was passed by this court on 1st August 2025. The Petitioner is now seeking review of the said order on two grounds. Firstly, on the ground that, this court has held that the Petitioner being

a Director of a company has sufficient income to travel from Thane to Nashik, as well as for making payment of the legal expenses by engaging counsel to defend her, in various proceedings pending at Nashik. This observation has been made by the Court on the basis of the affidavit filed by the Respondent in the Miscellaneous Civil Application claiming that, the Petitioner is a Director of a company, namely *Plastomax Engineering Private Limited*. Therefore, she has sufficient income and she does not suffer from any financial incapacity.

2. Mr. Pritesh Burad, learned counsel representing the Petitioner submits that, a reply has been filed by the Petitioner to the affidavit filed by the Respondent, bringing it on record that the Respondent-husband had filed insolvency proceedings before the NCLT in respect of the same company. The Petitioner-wife had filed an Intervention Application opposing the petition filed by the Respondent-husband. The petition filed by the husband has been dismissed by the NCLT by imposing a cost of Rs.10 lakhs for filing a frivolous and vexatious petition. It is submitted that this affidavit was filed by him in a companion Writ Petition No. 2829 of 2023, which was tagged with Miscellaneous Civil Application No. 253 of 2022. Since both the matters were tagged and were ordered to be heard together, he could not bring the said affidavit to the notice of this Court, when the Miscellaneous Civil Application was heard independently.

3. Upon hearing this submission, when a pertinent query was made to the learned counsel for the Petitioner, whether in the affidavit filed by the Petitioner, is there any observation made by the NCLT, that in spite of being the 'Director' of a company, the Petitioner is not drawing any income from the company. The learned counsel for the Petitioner has failed to point out any such averment from the concerned affidavit placed on record by the Respondent along with the affidavit filed to the

present Review Petition. Therefore, even though the concerned affidavit now relied upon to seek review was not pointed out by the learned counsel for the Petitioner, while hearing the Miscellaneous Civil Application, it does not make any difference on the merit of the application since it does not contain any averment about the financial incapacity of the Petitioner, in spite of being 'Director' of a company.

4. The second ground raised by the Petitioner is that the Family Court, Thane has granted interim maintenance of Rs. 1 lakh per month to the Petitioner, vide order dated 24th July 2025. The Judge, family Court, Thane has observed that the Petitioner does not have sufficient income to support herself and to bear necessary legal expenses, resultantly maintenance of Rs. 1 lakh has been granted in her favour. The learned counsel submits that this Court after hearing the parties had reserved the Miscellaneous Civil Application for passing orders on 10th July 2025, which was pronounced on 1st August 2025. In the meanwhile, the Judge, Family Court, Thane has passed the order granting maintenance, which could not be brought to the notice of this Court. Thus, on that ground also the order passed by this Court needs to be reconsidered.

5. So far as the second ground is concerned, a subsequent order passed by the subordinate Court cannot be a ground for entertaining the Review Petition. The concerned order was passed by the Family Court, Thane after the Miscellaneous Civil Application was heard finally and closed for orders. Therefore, an order which was passed at later point of time, would not be a ground to entertain the present Review Petition. Continue para 4,5,

6. Mr. Nitin Gangal, learned counsel for the Respondent submits that, none of the grounds raised by the Petitioner are maintainable for

reviewing the order passed by this Court, since they do not satisfy the ingredients of Order XLVII r/w Section 114 of the CPC. There is no error apparent on the face of the record, therefore, no interference is required in the Judgment and Order passed by this Court.

7. He further submits that the order passed by the NCLT as well as the NCLAT, do not have any bearing on the facts of the present case. Although the Petitioner had an opportunity, she has failed to point it out to this Court. So far as the orders passed for granting maintenance under Section 125 of the Cr.P.C. to the Petitioner are concerned, those cannot form basis for seeking review of the orders passed by this Court. Hence none of the grounds raised by the Petitioner satisfy the grounds for invoking Review jurisdiction of this Court, as such the Review Petition deserves to be dismissed.

8. After hearing the respective parties at length, it appears that the Petitioner is seeking Review of the Judgment and Order on two grounds, firstly on the ground that though the Petitioner had filed an affidavit regarding the NCLT proceedings in a companion petition, the Petitioner has failed to point it out during the course of hearing. According to the Petitioner, subsequent developments or discovery of certain facts, can be ground for invoking the Review jurisdiction and, accordingly she has filed the Review Petition. When the Petitioner realized that her financial capacity while rejecting the transfer petition was one of the considerations, the Petitioner has placed reliance on the order passed by the NCLT, wherein the Company Petition filed by the Respondent-husband has been rejected with cost. However, neither from the affidavit nor from the order of the NCLT, the learned Advocate for the Petitioner was able to point out that there is any observation or averment made regarding financial incapacity of the Petitioner, in spite of being a 'Director' of the company. Therefore, even

though the affidavit along with the order of NCLT was not annexed in the Miscellaneous Civil Application, it does not make any difference on the merits of the matter.

9. The jurisdiction of this Court for invoking powers of Review is very limited. A recent decision of the Hon'ble Supreme Court in ***Malleeswari V/s. K. Suguna and Another***¹, is relied by both the parties. Para no. 17 of the Judgment has restated the powers and scope of Review jurisdiction. According to the Petitioner, para 17.1 would be attracted in the present case which lays down that, when a new and important matter or evidence is available, which could not be brought to the notice of the court in spite of due diligence, it can be a ground to entertain a review. In my opinion, the new material which the Petitioner relies upon, is not relevant for deciding the Miscellaneous Civil Application, therefore, para 17.1 of the said judgment does not apply to the present matter.

10. So far as the ground of error apparent on the face of the record is concerned, it is time and again held in various judicial pronouncements as well as above referred judgment, that an error is not sufficient to entertain review, in fact such error must be manifest on the face of the record and should not be a mere wrong decision. Where an error has to be established by long drawn process of reasoning, which may have two opinions, cannot be said to be an error apparent on the face of the record.

11. Hence, I do not find any merit in the Review Petition. As such, the Review Petition stands rejected.

[MANJUSHA DESHPANDE, J.]