

Priya Soparkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION (ST.) NO.7317 of 2025

IN

WRIT PETITION NO.9818 OF 2019

WITH

INTERIM APPLICATION NO.3848 OF 2025

IN

REVIEW PETITION (ST.) NO.7317 of 2025

The Police Commissioner, Thane City.

... Review
Petitioner

Versus

Sakharam Tukaram Patil and ors.

...Respondents

Ms. Neha Bhide, GP with Ms. M. P. Thakur, AGP for the
State/Review Petitioner.

Mr. Girish R. Agrawal with Ms. Naina Boraste, Advocates for the
Petitioners in WP No.9818 of 2019 and for the Respondents
in RPWST No.7317 of 2025 and IA No.3848 of 2025.

CORAM M.S. Sonak &
Jitendra Shantilal Jain, JJ.
DATED: 19th March 2025

PC (Per M.S. Sonak, J.):

1. Heard Ms. Bhide, learned GP for the Review Petitioner.

2. At the outset, Ms. Bhide fairly states that this Review Petition is filed only by the Police Commissioner, Thane City, and not by Review Petitioners Nos. 2, 3, and 4 reflected in the cause title. Accordingly, she seeks to delete Review Petitioners Nos. 2, 3, and 4 from the cause title.

3. Deletion is permitted—necessary amendment to be carried out forthwith. Re-verification is dispensed with.

4. Interim Application No.3848 of 2025 seeking condonation of delay of 45 days in instituting this Review Petition is allowed. The delay of 45 days in instituting this Review Petition is condoned. Sufficient cause has been shown, and quite correctly, Mr. Agrawal does not oppose condonation, learned counsel who appears for the original Petitioners in WP No.9818 of 2019.

5. With the consent of learned counsel for the parties, the Review Petition was considered.

6. This Review Petition seeks a review of judgment and order dated 12th December 2024 disposing of Writ Petition No.9818 of 2019.

7. Ms. Bhide points out that the Review Petitioner has no grievance about most of the order's contents dated 12th December 2024, except the direction for restoring the possession of the subject property to the Petitioners. She submits that it is the police department that was in possession of the subject property right

from 1945, and this was also stated in paragraph No. 4 of the affidavit-in-reply filed by Jayraj Karbhari, Sub-Divisional Officer, Ulhas Nagar, on 20th July, 2023. She submitted that the Review Petitioner had already filed a revision before the Chief Settlement Commissioner under the Displaced Persons (Compensation and Rehabilitation) Act, 1954, to challenge the allotment order favoring the original Petitioners. She submitted that suitable directions may be issued to the Revisional Authority to dispose of the revision application, and till then, the direction for restoration of possession may be reviewed or suspended.

8. Mr. Agrawal, learned counsel for the original Petitioners, submits that the police department did not file a reply to the main petition. He further submits that the Petitioners were granted possession of the allotted plot, but the police physically prevented them. He submitted that a corrigendum was then issued to virtually revoke the allotment without even the minimum compliance with the principles of natural justice and fair play. Accordingly, he submitted that no case was made for the exercise of any review jurisdiction.

9. Admittedly, the Police Commissioner, who has now filed the Review Petition, was specially impleaded as one of the Respondents in the original petition. No reply was filed on behalf of the Police Commissioner, though this petition was instituted in 2019, and this Court issued a *status-quo* order on September 5, 2019.

10. The Review Petition makes several statements and even refers to some documents. However, there is no explanation as to why all these so-called facts were not produced on record by filing an affidavit or producing documents. The documents, at least *prima facie*, do not show any specific allotment favouring the police department. There is no explanation for why all these were not produced in the main petition.

11. Under Order XLVII Rule 1 of the Code of Civil Procedure, 1908, a review may be applied in case of an error apparent on the face of the record, which is not the case pleaded in the Review Petition or argued. A review could also be applied where a party, from the discovery of new and important matter of evidence, which, after the exercise of due diligence, was not within its knowledge or could not be produced when the order was made, warrants a recall or review.

12. There is no explanation why the material referred to in the Review Petition could not be produced earlier. There are no statements regarding the exercise of any due diligence. There is no case that such material was not within the knowledge of the Police Commissioner. None of the parameters for the exercise of review jurisdiction have been made out. Besides, based upon the statement in the Review Petition or the accompanying documents, it is doubtful whether any case is made out for varying the direction for restoration of the possession.

13. The order impugned in the main petition was made in gross violation of the principles of natural justice and fair play. The Petitioner was allotted the property under the Displaced Persons (Compensation and Rehabilitation) Act 1954. Even now, it is not the case that some other plot is being allotted to the original Petitioners by way of compensation and rehabilitation. After allotment was made by way of rehabilitation, the original Petitioners were deprived of the use of the allotted plot by the police authorities, mostly by taking the law into their own hands. In any event, the *status quo* was operating from 5th September 2019.

14. After the impugned order was set aside, consequently, the possession had to be restored. Based on the arguments advanced or the material produced with the review petition [even assuming without accepting that such documents could be produced or relied on], no case is made out to review the direction for restoration. No grievance was raised about the main order, and the review was restricted only to the consequential direction for restoration of the allotted plot to the petitioners. No grounds are made out for such a review.

15. Accordingly, no case is made out to review the order, given the limited parameters of review jurisdiction. Even if we were to relax such parameters, which, we cannot, still no case for review was made out based on the statements in the review petition and the documents accompanying the same.

16. In terms of the judgment and order dated 12th December 2024, our directions are to be complied with within eight weeks, and a compliance report along with photographs is to be filed. To date, Respondents No.1, 2 and 3 in the main petition have not filed the compliance report. Earlier, we thought that they had filed a Review Petition. However, now it is clarified that no Review Petition was filed by Respondents No.1, 2 and 3 in the main petition. Therefore, compliance had to be made.

17. At this stage, Mr Agrawal learned counsel for the original Petitioner, states that on 12th February 2025, the original Petitioners were placed in possession of the subject plot by the Managing cum Sub-Divisional Officer, i.e. original first Respondent. This means that our order dated 12th December 2024 has already been complied with. Therefore, there is no question of reviewing the consequential direction for restoring possession at this stage since the possession is already restored to the original Petitioners.

18. Review Petition is dismissed on merits for all the above reasons. However, we clarify that the Revision, which the Police Commissioner has filed, should be decided on its own merits and in accordance with the law, complying with the principles of natural justice and fair play.

(Jitendra Jain, J.)

(M. S. Sonak, J.)