

Santosh

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

**INTERIM APPLICATION NO. 10639 OF 2025  
IN  
WRIT PETITION NO. 1713 OF 2018**

Vikram Pravinchandra Kapadia ...Applicant

**Versus**

M/s. National Construction Co. & Ors. ...Respondents

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KULKARNI

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Mr. Anil Lulla, a/w Sunita Warang, for the Applicant/Petitioner.  
Ms. Ranjana Parikh, for Respondent No.1.

**CORAM: N. J. JAMADAR, J.  
DATED: 22<sup>nd</sup> AUGUST, 2025**

**PC:-**

1. Heard the learned Counsel for the parties.
2. This is an application in a disposed of petition. By this application, the applicant seeks prayers which, in essence, amount to reopening of the issues which have been conclusively decided by this Court by the judgment and order dated 25<sup>th</sup> March, 2025 in the Writ Petition and Civil Revision Application No.487 of 2017 and the connected matter.
3. In the instant case, the judgment passed by this Court on 25<sup>th</sup> March, 2025 was assailed by the applicants in Special Leave to Appeal (C) Nos.14835-14837/2025. By an order dated

23<sup>rd</sup> May, 2025 the said Special Leave to Appeal came to be disposed as not pressed.

4. The Supreme Court has strongly deprecated the practice of entertaining applications in disposed of proceedings. In the case of *Hari Singh Mann vs. Harbhajan Singh Bajwa and others*<sup>1</sup>, the Supreme Court observed that the practice of filing miscellaneous petitions after the disposal of the main case and issuance of fresh directions in such miscellaneous petitions by the High Court is unwarranted and amounts to abuse of the process of the Court. The observations in paragraph 8 are extracted below:

“8. We have noted with disgust that the impugned orders were passed completely ignoring the basic principles of criminal law. No review of an order is contemplated under the Code of Criminal Procedure. After the disposal of the main petition on 7-1-1999, there was no lis pending in the High Court wherein the respondent could have filed any miscellaneous petition. The filing of a miscellaneous petition not referable to any provision of Code of Criminal Procedure or the rules of the Court, cannot be resorted to as a substitute of fresh litigation. The record of the proceedings produced before us shows that directions in the case filed by the respondents were issued apparently without notice to any of the respondents in the petition. Merely because the respondent NO.1 was an Advocate, did not justify the issuance of directions at his request without notice of the other side. The impugned orders dated 30th April, 1999 and 21st July, 1999 could not have been passed by the High Court under its inherent power under Section 482 of the Code of Criminal Procedure. The practice of filing miscellaneous petitions after the disposal of the main case and issuance of fresh directions in such miscellaneous petitions by the High Court are unwarranted, not referable to any statutory provision and in substance the abuse of the process of the court.”

(emphasis supplied)

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**1** (2001) 1 SCC 169.

5. In the case of *Nazma vs. Javed alias Anjum*<sup>2</sup>, the Supreme Court reiterated that the practice of entertaining miscellaneous applications in disposed of writ petition was deprecated by the Supreme Court in *Hari Singh Mann* (supra) and thereafter observed as under:

“12. We are of the view that the High Court has committed a grave error in not only entertaining the criminal miscellaneous application in a disposed of writ petition, but also passing an order not to arrest the 1st respondent till the conclusion of the trial. Grant of bail or not to grant, is within the powers of the regular Criminal Court and the High Court, in its inherent jurisdiction, not justified in usurping their powers. Once the criminal writ petition has been disposed of, the High Court becomes functus officio and cannot entertain review petitions or miscellaneous applications except for carrying out typographical or clerical errors. In the instant case, the High Court has entertained a petition in a disposed of criminal writ petition and granted reliefs, which is impermissible in law.

6. In view of aforesaid clear enunciation of law and the caution administered by the Supreme Court, the instant interim application, which has been filed with a design to reopen the issues that have attained finality, does not deserve to be entertained.

7. The application stands dismissed.

[N. J. JAMADAR, J.]

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<sup>2</sup> (2013) 1 SCC 376.