



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CIVIL APPLICATION (CAO) NO.937/2025

IN

MISC. CIVIL APPLICATION ST. NO.6107/2025 (REVIEW)

IN

FIRST APPEAL NO.1735/2019

Vidarbha Irrigation Development Corporation, through its Executive Engineer,
Arunawati Patbandhare Division, Digras, tq. Digras, Distt. Yavatmal and another
Vs.

Priyadarshan Rajkamal Bharti and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri. M.A. Kadu, Advocate for appellants
Shri S.O. Ahmed, Advocate for respondent No.1
Shri H.D. Futane, AGP for respondent Nos.2 and 3/State

CORAM : PRAVIN S. PATIL, J.

DATE : 21.11.2025

1. This Court, by order dated 26.09.2025, put on notice both the parties that the application for condonation of delay and the review application will be heard simultaneously. Both the Counsel were agreed to this preposition and accordingly, advanced their arguments on the point of condonation of delay as well as the merits of review of judgment of this Court dated 07.08.2024.

2. The review applicant, who is an acquiring body came with a submission that the judgment delivered by this Court dated

07.08.2024 needs reconsideration on two grounds, firstly, there is non-consideration of binding precedent and took a totally contrary view while deciding the appeal and second ground that the contentions which are urged before this Court were not considered. According to the review applicant, this can be considered as an error apparent on the face of record and thereby this Court can exercise the review jurisdiction. In support of this proposition, the review applicant has relied upon the judgment of the Division Bench of this Court reported in (2025) 3 Mh.L.J. 230.

3. In view of this proposition of law, I have heard the review applicant as well as the original appellant/non-applicant on the merits of the review application.

4. At the outset, the Counsel for the non-applicant gave no-objection to condone the delay of 188 days. Hence, in view of no-objection of non-applicant, delay of 188 days stands condoned.

5. The applicant has made an attempt to point out that this Court in paragraph No.8 of the judgment, has referred judgment on which applicant has relied upon. However, same were not made applicable

while deciding the appeal. Applicant mainly relied upon the judgment in case of *Sharad Shankarappa Halkude and others vs. State of Maharashtra and others (2024 DGLS (Bom.) 2470)* and *Chandrashekhar (D) by LRs. And others vs. Land Acquisition Officer, (AIR 2012 SC 446)*. Hence, according to him, both these judgments were binding precedent and ought to have been looked into or at least considered its applicability while deciding the matter by this Court. Non-consideration of the same, the review of the order is necessary in the matter.

6. Learned Counsel for the original applicant/non-applicant has pointed out that while deciding the First Appeal by this Court, his entire insistence was on the fact that in an identical case, arising out of the same land acquisition proceeding, but for other land, the present non-applicant has filed First Appeal No.587/2017 before this Court. In the said proceedings, this Court has considered all the merits of the matter along with a bunch of petitions, this Court has held that the land owners, whose lands have been acquired, are entitled for compensation at the rate of Rs.275/- per sqft. for the acquired land without deducting any development charges along with all statutory benefits and interest etc. He has pointed out that this fact is specifically

recorded by this Court in paragraph No.4 of the judgment.

7. Not only this, he has further pointed out that on the ground of parity, this Court by relying on the judgment of the Hon'ble Supreme Court of India has reached to the conclusion that there is no need of any deduction towards the development charges and hence, the order came to be passed by considering the submissions raised by both the parties before this Court. According to him, there was a reason for the Court not to deduct the development charges in the matter and the argument raised by the review applicant was not considered in the matter. Therefore, filing of review is nothing but to ask this Court to re-appreciate the controversy and same is not permissible while deciding the review application.

8. In light of the submissions of both the parties made before me, I have gone through the judgment and order of this Court dated 07.08.2024. From the judgment of this Court, it is clear that this Court in paragraph No.4 has referred to judgment delivered by this Court in First Appeal No.589/2017 wherein this Court while deciding a bunch of appeals has also decided the First Appeal No.587/2017, wherein the present non-applicant was the appellant, who has filed appeal for

enhancement of compensation.

9. In the said appeal, this Court has enhanced the compensation at the rate of Rs.275/- per sqft. without deducting any development charges along with all statutory benefits and interest etc. The said appeal has attained finality. Therefore, on ground of parity, said judgment being a good piece of evidence, has been relied in the matter.

10. In support of this submission, the non-applicant has also relied upon the judgment of the Division Bench of this Court, in First Appeal No.132/2017 decided on 07.01.2025. The Division Bench of this Court also of the same opinion, awarded the compensation at the rate of Rs.275/- per sqft. with all statutory benefits without deduction of amount towards development charges. The said appeal was also arising out of same land acquisition proceedings.

11. In my opinion, this Court considering the above said factual aspects, specifically recorded its finding in paragraph No.13 of the judgment. The same is reproduced as under:

“13. The nature of property is most important than

the purpose for which it is acquired. The property of appellant has commercial potentiality. Therefore, considering this aspect and the law laid down in the case of First Appeal No.589/2017 by this Court is certainly applicable to the appellant's case for awarding same rate of compensation. Thus, different purpose for which the land acquired is not decisive criteria to discriminate and determine different amount of compensation to the farmers of same village of same area. Therefore, above case laws cited on behalf of the respondents are not useful to them in the different context of this appeal.”

12. In light of above said factual aspects, I am of the considered opinion that there is no *prima facie* apparent mistake on record. If the contentions of review applicant are considered, it will amount to re-consider the findings recorded by this Court, in other words re-appreciation of facts.

13. The submission made by the present applicant in the present matter, though *prima facie* is conveyancing, but that could be a better argument while deciding the appeal on the basis of the finding recorded by this Court. Accepting such submission, it will amount to re-consider the reasoning recorded in the matter.

14. It is well settled position of law that in the review proceedings,

only the error which is apparent on the face of record, can be considered by this Court. This Court while determining such error is not supposed to go through the detailed examination, scrutiny or illustration of either of the facts or the legal position. In present matter, this Court already recorded reason as to why this Court was not opined to accept other case laws.

15. Therefore, in my opinion, the submissions made by the review applicant in the matter does not find justified for invoking the review jurisdiction in the matter.

16. Hence, for the aforesaid reasons, I am of the opinion that this is not a fit case for exercising the review jurisdiction and, therefore, the same stands dismissed.

(PRAVIN S. PATIL J.)