



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

CAF NO.1314/23 IN FA NO.111/2021
Smt.Yashodabai w/o Narayan Sirsat (dead) and ors

..VS..

**The State of Maharashtra, through Sub-Divisional Officer and Land
Acquisition Officer, Akola and anr**

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

Court's or Judge's Order

Shri Nihalsingh Rathod, Counsel for the Applicants.
Shri Amit Madiwale, AGP for NA No.1/State.
Shri Ashish Chaware, Counsel for NA No.2/MIDC.

CORAM : URMILA JOSHI-PHALKE, J.

CLOSED ON : 22/08/2025

PRONOUNCED ON : 24/09/2025

1. Heard.

2. The present application is filed by the applicants in First Appeal No.111/2021 for review on the ground that this court, while dismissing the appeal, held that original claimant Narayan had filed reference under Section 30 of the Land Acquisition Act (the said Act) bearing Land Acquisition Case No.49/2000 which is

decided on 28.8.2011. Once the reference has been decided, that cannot be decided again by raising other grounds. The appeal is dismissed on the ground that it is barred by limitations. These observations are apparent error on the face of record and, therefore, by way of review, the order requires to be quashed and set aside.

3. By this application, the applicant has claimed review and modification of judgment dated 18.4.2023 by claiming appropriate compensation against the acquisition of land.

4. The application is resisted by the non-applicants on the ground that the review application itself is not maintainable there is no error apparent on the face of record. The issue raised by the applicants requires re-appreciation of the evidence which is not permissible by invoking powers under Order XLVII and Section 115 of the CPC. The grounds raised by the applicants are not

within the purview review and, therefore, the application deserves to be rejected.

5. Learned counsel Shri Nihalsingh Rathod for the applicants submitted that terminology used in Section 30 of the said Act requires the court to give decision so as to enable the LAO to prepare the award in favour of the rightful beneficiaries. The scheme of the Act and importantly wording of Section 30 of the said Act itself show that such reference is made at the stage when enquiry under Section 11 of the said Act is over. Therefore, once Section 30 reference is answered, the LAO will commence proceeding under Section 12 of the said Act. It is for this reason, that unless name of the person to whom compensation is to be awarded is determined, the proceeding is stalled till actual beneficiaries are determined. Initially, there was a dispute as to the ownership of the land, gat No.144 having survey No.178/2 and, therefore, the Collector has

referred the issue to the CJSD. During the pendency of the said reference, original owner Narayan died and the applicants are brought on record in the said reference. The applicants are declared to be legal heirs of Narayan. The claimants were not aware about award. The reference for enhancement of compensation was presented on 9.9.2011. The claimants got knowledge about the amount of compensation when the said amount of compensation was disbursed to them. Thereafter, they applied for certified copies and filed Reference on 9.9.2011. Thus, the reference is within the limitation. Thus, the observation of this court that the reference is not within the limitation is an apparent error on the face of record and, therefore, the judgment and order requires to be reviewed.

6. In support of his contentions, learned counsel for the applicants placed on following decisions:

1. MIDC, Nagpur vs. Shaikh Khatinabai wd/o Abdul Gaffar Shaikh, reported in 2008(1) Mh.L.J. 813;
2. Vitthal Bhaskar Thakur vs. Special Land Acquisition Officer and anr, reported in 2007(2) Mh.L.J. 707;
3. Abhay Laddulal Shah vs. Udaykumar Radhakisan Dubey and ors, reported in 2015(3) Mh.L.J. 660;
4. Mahadeo s/o Rama Vaidya and anr vs. State of Maharashtra and anr, reported in 2008(6) Mh.L.J.659;
5. Board of Control for Cricket, India and anr vs. Netaji Cricket Club and ors, reported in 2005 AIR (SC) 592, and
6. Sri Budhia Swain and ors vs. Gopinath Deb and ors, reported in 199 4 SCC 396.
7. *Per contra*, learned AGP Shri Amit Madiwale for the State and learned counsel Shri Ashish Chaware for non-applicant No.2 resisted the application on the ground that

the applicants are asking the court to re-appreciate the evidence, which is not permissible. There is no error apparent on the face of record. Therefore, the application deserves to be rejected.

8. Before entering into the merits it is necessary to see the legal position in respect of review application. A perusal of Order 47 Rule 1 shows that review of a judgment or an order could be sought :

(a) from the discovery of new and important matters or evidence which after the exercise of due diligence was not within the knowledge of the applicant;

(b) such important matter or evidence could not be produced by the applicant at the time when the decree was passed or order made; and

(c) on account of some mistake or error apparent on the face of the record or any other sufficient reason.

9. Thus, the power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made. It may not be exercised on the ground that the decision was erroneous on merits as that would be the province of a court of appeal. A power of review is not to be confused with appellate powers which may enable an appellate court to correct all manner of errors committed by the subordinate court.

10. In the case of **Haridas Das vs. Usha Rani Banik (Smt.) and others**, 2006(4) Mh.L.J. (S.C.) 14, while considering the scope and ambit of Section 114 read with Order XLVII, Rule 1 of the Code of Civil Procedure, it is observed and held in paragraph Nos.14 to 18 as under:

“14. In **Meera Bhanja vs. Nirmala Kumari Choudhury**, (1995)1 SCC 1780 it was held that:
“It is well settled law that the review

proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order XLVII, Rule 1, CPC. In connection with the limitation of the powers of the Court under Order XLVII, Rule 1, while dealing with similar jurisdiction available to the High Court while seeking to review the orders under Article 226 of the Constitution of India, this Court, in the case of **Aribam Tuleshwar Sharma v. Aribam Pishak Sharma speaking through Chinnappa Reddy, J.** has made the following pertinent observations:

“It is true there is nothing in Article 226 of the Constitution to preclude the High Court from exercising the power of review which inheres in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to be exercise of the power of review. The power of review may be exercised on the discovery of new and important matter of evidence which, after the exercise of due diligence was not

within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found, it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merit. That would be in the province of a court of appeal. A power of review is not to be confused with appellate power which may enable an appellate Court to correct all manner of error committed by the Subordinate Court.”

11. Keeping in mind the aforesaid principles , let us consider the first ground of the applicants.

12. As per the contentions of the applicants, the scheme of the Act and importantly wording of Section 30 of the said Act show that such reference, at the stage when enquiry under Section 11 is over, the claimants, whose land was acquired under the said Act, acquired the

knowledge when they appeared after the death of original owner Narayan. The reference court declared legal heirs of Narayan as owners of the property and persons interested. The compensation was granted to them on 28.8.2011 and they preferred reference on 9.11.2011 and, therefore, the reference was within the limitation.

13. The First Appeal was dismissed on the ground that the land reference filed by the claimants was not within the limitation, which as per the applicants is apparent error. In support of the said contention, learned counsel for the applicants placed reliance on **MIDC, Nagpur vs. Shaikh Khatinabai wd/o Abdul Gaffar Shaikh** *supra*. Perusal of the said decision reveals that facts in the said case and facts in the present case are not identical.

Similar is the case of **Vitthal Bhaskar Thakur vs. Special Land Acquisition Officer and anr** *supra* as relied upon by learned counsel for the applicants.

14. In **Abhay Laddulal Shah vs. Udaykumar Radhakisan Dubey and ors** the issue raised was, whether the reference is maintainable and this court observed that adjudication under Section 30 of the said Act can only be challenged by preferring appeal under Section 96 of the CPC and under Section 54 of the said Act.

15. The facts in the case of **Mahadeo s/o Rama Vaidya and anr vs. State of Maharashtra and anr *supra*** are also not identical.

16. Coming to the facts of the present case, it reveals that original claimant Narayan was original owner of gat No.144 having survey No.178/2. The said land was granted to him vide certificate No.27/16-A(65-66) of Yavata dated 18.8.1966. The said land was acquired for the purposes MIDC, Akola. The compensation for 6 acres of land was determined @ Rs.97,002/- by the LAO, Akola by award No.LAQ/47/Yavata/ 1991-92. However, Namdeo More

and Tukaram Dhagekar claimed title in the above said property on the basis of sale deed allegedly executed by the original claimant. Original claimant Narayan claimed that the said deed was bogus document and possession was never delivered to Namdeo More and Tukaram Dhagekar. Said Namdeo had filed RCS No.773/1995 for declaration which was dismissed on 18.1.1995. The consolidation officer has also declared Narayan as owner by its order dated 18.5.1991. Thereafter, said Narayan had applied to the LAO for the payment of compensation amount. However, in dispute raised between Narayan and Namdev and Tukaram, the amount was not paid to them. Therefore, he filed Land Acquisition Case No.49/2000 wherein Namdev and Tukaram were respondent Nos.2 and 3.

17. As respondent Nos.2 and 3 failed to file written statement, the application proceeded without their written statements. During the pendency of the reference, original claimant Narayan died and, therefore,

his legal representatives, i.e. present applicants were brought on record. In the said application, deceased applicant Yashodabai adduced her evidence and produced various documents. After considering the evidence on record, 2nd Joint CJSD, Akola allowed the application and declared the claimants, i.e. present applicants, entitled to get compensation amount of Rs.97,002/- determined by the LAO in the case No.LAQ/47/Yavata/ 1991-92 in respect of 2 H 43R land of gat No.144.

18. As the applicants aggrieved by the compensation amount determined by the LAO, filed reference under Section 34 of the Maharashtra Industrial Development Act, 1961 read with Section 18 of the said Act. After recording the evidence of the applicant, the reference court dismissed the said reference on 25.6.1990 observing that the reference is not within limitation. Being aggrieved and dissatisfied with the same, the

claimants preferred the appeal before this court on the ground that the reference court has not considered that the claimants were not aware about the award passed by the LAO.

19. After hearing both the sides, the point framed was that whether the reference petition filed by the claimants is within limitation in view of the provisions of Section 34 of the Maharashtra Industrial Development Act and in view of Section 18 of the said Act.

20. While deciding the appeal, this court considered that Narayan was original owner of the said property. His land was acquired for the purpose of MIDC, Akola and Notification under Section 32(2) of the Maharashtra Industrial Development Act was published on 13.8.1992. The award was passed on 28.3.1997.

21. After receipt of the notice, Narayan claimed compensation. However, his claim was resisted by Namdeo and Tukaram. Said Namdev filed RCS

No.773/1985 which was dismissed on 18.5.1991. The consolidation officer has declared Narayan as owner. Thereafter, Narayan approached to the CJSD by filing the reference under Section 30 of the said Act. During the pendency of the said application, Narayan died and the applicants are brought on record as his legal heirs. The application bearing Land Acquisition Case No.49/2000 was decided in favour of the applicants on 12.8.2010. Thereafter, the applicants approached to the LAO for grant of compensation. The compensation amount was deposited on 28.8.2011. The applicants received the compensation amount under protest and, thereafter, filed the reference before CJSD on 9.9.2011. The State has contested the said reference on the ground of limitation. Respondent No.2 also contested the reference by filing written statement.

22. The contention of the applicants is that, they have filed the reference after knowledge and claimant No.2

Devanand filed an affidavit of examination-in-chief and reiterated the contentions as narrated by him in the reference petition. As per his evidence, he was not having knowledge about the award till 20.8.2011. The respondents have deposited the amount on order passed in Land Acquisition Case No.49/2000 and, thereafter, he got knowledge. Thereafter, he filed the reference petition. During the cross examination, he specifically admitted that in year 1997, when notice was received by him, he came to know about the award. He also admitted that the reference regarding the entitlement to receive compensation amount was decided by the court on 28.8.2011.

23. In view of the above evidence, this court, while deciding the FA, observed in para No.21 that right of the claimants was crystallized by the reference court on 12.8.2010. In view of Section 18 of the said Act, if the claimants are dissatisfied and aggrieved by the

compensation amount determined by the LAO, in view of sub section (2)(a) of Section 18, if the person making was present or represented before the Collector, at the time when he made the award, within six weeks from the date of the Collector's award and in view of sub section (2)(b) states that in other cases within six weeks from receipt of the notice from the Collector, under Section 12(2) or within six months from the date of Collector's award, whichever period shall first expire, the claimant has to file the reference.

24. Sub section (1) of Section 18 states who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

25. Thus, within six weeks the claimants ought to have filed application for compensation from the date of order passed in Land Acquisition Case No.49/2000 filed under Section 30 of the said Act.

26. The entitlement of the claimants was decided on 12.8.2010. Thus, from 12.8.2010, the limitation period for the claimants to claim compensation starts and they have to file the reference withing six weeks from the date of 12.8.2010.

27. The present application in LAC No.1/2013 was filed by the claimants under Section 18 on 9.9.2011 i.e. after period of limitation. In view of Section 34 of the Maharashtra Industrial Development Act, a person aggrieved by the decision of the Collector determining the amount of compensation may, within sixty days from the date of such decision, files an application for enhancement of the compensation.

28. Thus, the application is not filed within limitation in view of the provisions of Section 34 of the Maharashtra Industrial Development Act. The period of limitation cannot be extended by the Collector or the Court and, therefore, reference should essentially be filed within prescribed period of limitation under Section 34(1) of the Maharashtra Industrial Development Act and, therefore, the appeal was dismissed.

29. In the present case, the applicants, by way of review application, are asking to go into the merits of the matter. The powers of review is different from the appellate powers.

30. Recently, the Hon'ble Apex Court, in appeal in the case of **Malleeswari vs. K.Suguna and anr decided 8.9.2015** laid down following limitations to maintain finality of judicial decisions:

“15.1 The review proceedings are not by way of an appeal and have to be strictly confined to

the scope and ambit of Order 47 Rule 1 of CPC;

15.2 Review is not to be confused with appellate powers, which may enable an appellate court to correct all manner of errors committed by the subordinate court.

15.3 In exercise of the jurisdiction under Order 47 Rule 1 of CPC, it is not permissible for an erroneous decision to be reheard and corrected. A review petition, it must be remembered, has a limited purpose and cannot be allowed to be an appeal in disguise.

15.4 The power of review can be exercised for the correction of a mistake, but not to substitute a view. Such powers can be exercised within the limits specified in the statute governing the exercise of power.

15.5 The review court does not sit in appeal over its own order. A rehearing of the matter is impermissible. It constitutes an exception to the general rule that once a judgment is signed or pronounced, it should not be altered. Hence, it is invoked only to prevent a miscarriage of justice or to correct grave and palpable errors.

16. To wit, through a review application, an apparent error of fact or law is intimated to the court, but no extra reasoning is undertaken to explain the said error. The intimation of error at the first blush enables the court to correct apparent errors instead of the higher court correcting such errors. At both the above stages, detailed reasoning is not warranted.

17. Having noticed the distinction between the power of review and appellate power, we restate

the power and scope of review jurisdiction.

Review grounds are summed up as follows:

17.1 The ground of discovery of new and important matter or evidence is a ground available if it is demonstrated that, despite the exercise of due diligence, this evidence was not within their knowledge or could not be produced by the party at the time, the original decree or order was passed.

17.2 Mistake or error apparent on the face of the record may be invoked if there is something more than a mere error, and it must be the one which is manifest on the face of the record. Such an error is a patent error and not a mere wrong decision. An error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions

can hardly be said to be an error apparent on the face of the record.

17.3 Lastly, the phrase ‘for any other sufficient reason’ means a reason that is sufficient on grounds at least analogous to those specified in the other two categories”.

31. Thus, while deciding the appeal, the aspect of right of the claimants which was crystallized by the reference court on 12.8.2010, was considered. It is also observed that in view of Section, if the claimants are dissatisfied and aggrieved by the compensation amount determined by the LAO, sub section (2)(a) of Section 18, if the person making was present or represented before the Collector, at the time when he made the award, within six weeks from the date of the Collector’s award and in view of sub section (2)(b), in other cases within six weeks from receipt of the notice from the Collector, under Section 12(2) or within six months from the date of

Collector's award, whichever period shall first expire, the claimant has to file the reference.

32. Sub section (1) of Section 18, any persons interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

33. Thus, within six weeks the claimants ought to have filed application for compensation from the date of order passed in Land Acquisition Case No.49/2000 filed under Section 30 of the said Act.

34. Thus, from 12.8.2010, i.e. the date on which the claimants received compensation, the limitation period for the claimants to claim the compensation starts and they

have to file reference within 6 weeks from the date of 12.8.2010.

35. By this application, the applicants are seeking reconsideration of this observation by way of review, which is not permissible.

36. Taking into consideration the scope of review petition, the facts of the present case and the law laid down by the Hon'ble Apex Court and submission made by learned counsel for the applicants, that The term 'mistake or error apparent' by its very connotation signifies an error which is evident per se from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position. If an error is not self-evident and detection thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of the record for the purpose of Order 47 Rule 1 of the CPC or Section 22(3)(f) of the Act.

37. Thus, an order or decision or judgment cannot be corrected merely because it is erroneous in law or on the ground that a different view could have been taken by the Court on a point of a fact or law.

38. In this view of the mater, the application being devoid of merits deserves to be rejected and the same is **rejected.**

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!