



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

SC. CIVIL APPLICATION NO.969/2024 IN WRIT PETITION NO.6449 OF 2022

Shibu s/o John Mathews and others Vs. State of Maharashtra and others

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

Court's or Judge's order

Mr.Anand Parchure, Advocate for the applicants.
Mr.N.S.Rao, AGP for respondent nos.1 to 3.

CORAM : NITIN W. SAMBRE & ABHAY J.MANTRI, JJ.
DATE : MAY 7, 2025.

1. Heard.
2. This application is by the original petitioners seeking review of the oral judgment dated 5th September, 2024. The petitioners claiming to be exclusive owners of the land survey no.116/1, admeasuring 1.13 hectors of Mouza Shankarpur, Tahsil and District Nagpur has submitted and got sanctioned a Scheme under Section 20 (1) (a) of the Urban Land (Ceiling and Regulation) Act, 1976 ("ULC Act").
3. It is the case of the petitioners that they are entitled for deletion of the revenue entries in relating to ULC Act and are entitled for declaration that they are the exclusive owners of the aforesaid land.
4. Mr. Parchure, learned counsel appearing for the petitioners, would urge that this Court while deciding the Writ Petition wherein dismissal order is passed has failed to consider that the Scheme under Section 20 of the ULC Act was sanctioned on the basis of the non-agricultural status of the land in question which was pursuant to the N.A. Conversion Order dated 26th September, 2006. The said order dated 26th September, 2006 was cancelled on 17th March, 2010.

As a sequel of above, the Scheme sanctioned under Section 20 of the ULC Act on 31st July, 2006 could not be implemented and was unworkable. As such he has claimed that the saving clause in the Repeal Act will not be attracted so as to infer the saving of the Scheme sanctioned under Section 20 of the ULC Act. According to him, this Court has committed an error in applying the Full Bench judgment in the matter of ***Maharashtra Chamber of Housing Industry Versus State of Maharashtra and another*** (Writ Petition No.9872 of 2010) to the factual matrix of the case in hand. As admittedly, the State has not taken possession of the land. According to him, therefore, notice was not issued to the petitioners asking them to implement the Scheme under Section 20 of the ULC Act.

5. Mr. Parchure, learned counsel appearing for the applicants and original petitioners so as to substantiate his contention has relied on the observations of this Court in para 12 of the Judgment. Mr. Parchure, as such claimed that the observations in para 12 of the judgment are incorrect. According to him, once the order of retention is passed pursuant to the Scheme sanctioned, the land stood released in favour of the petitioners. He would claim that the order of extension granted to implement the Scheme permits selling of the plots within the stipulated time therein and that being so, they are entitled for the relief claimed.

6. As against above, Mr. Rao, learned Assistant Government Pleader would strenuously urge that the ground which is sought to be canvassed is in the form of an altogether new case which is being introduced and

for the same, review jurisdiction is not available. He would further claim that the petitioners are trying to reiterate what has been argued at the time of deciding the writ petition and as such there is no error apparent on the face of record. As such he has sought dismissal of the application.

7. This Court while deciding the issue was sensitive to the provisions of the ULC Act and the interpretation of the provisions in the matter of **Hubli Dharwad Urban Development Authority Versus Vidyarnya Sangha** [(1998) 8 SCC 365]. This Court was further sensitive to the interpretation of the provisions of the Repeal Act and the effect of the Repeal Act over the Scheme as has been elucidated in the authoritative full bench judgment of this Court in the matter **Maharashtra Chamber of Housing Industry** (*supra*). The contentions of the petitioners were considered in the light of the aforesaid full bench judgment. The petitioner himself had applied for exemption order under Section 20(1) (a) of the ULC Act and as such the petitioners were duty bound to comply with the conditions therein. This Court further noted that in view of the provisions of Section 3 (1)(b) of the Repeal Act, the exemption order was saved. The petitioners were unable to demonstrate that the exemption order was not saved and as such this Court has dismissed the writ petition by a reasoned order.

8. If we appreciate the scope of the review jurisdiction in the light of the judgment of the Apex Court in the matter of **Kamlesh Verma Vs. Mayawati and others** (2013) 8 SCC 320, the Apex Court in para 20

has summarized the principles for invoking the review jurisdiction and the cases in which the review proceedings are not maintainable. In our opinion, the contentions raised in the review application are squarely covered by para 20.2.(i) of the said judgment and as such, the review jurisdiction cannot be exercised for the very same arguments which were sought to be canvassed at the time of deciding the writ petition.

9. That being so, there is no substance in the review application and the same stands rejected. No costs.

(ABHAY J. MANTRI, J.)

(NITIN W.SAMBRE, J.)

Mukund Ambulkar