

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

REVIEW APPLICATION NO.21 OF 2015
IN
SECOND APPEAL NO.260 OF 2013

1. Yusufkhan s/o Gulabkhan
Pathan,
Age 67 years, Occu.Aгри.,
R/o Madalmohi, Taluka Gevrai,
Dist. Beed
2. Bapusaheb s/o Bajirao Pawar
(Dead)
3. Uttamrao s/o Vithalrao Warange,
Age 77 years, Occu.Aгри.,
R/o Madalmohi, Taluka Gevrai,
District Beed

..Applicants
(Orig.Appellants)

Versus

1. Joint Charity Commissioner,
Latur Region, Latur
Diwan Building, Ambejogai road,
Latur
2. Marotirao s/o Tatyaba Sarpate,
Age 75 years, Occu.Aгри.,
R/o Madalmohi, Taluka Gevrai,
District Beed

..Respondents

Mr R.N. Dhorde, Senior Counsel i/b Mr V.B. Anjanwatikar, Advocate for
applicants
Mrs Y.M. Kshirsagar, A.G.P. for respondent No.1

CORAM : N.W. SAMBRE, J.

**DATE OF RESERVING THE
ORDER : 11th March 2015**

**DATE OF PRONOUNCING THE
ORDER : 24th June 2015**

ORDER

1. The applicants are the original appellants in Second Appeal No.260 of 2013 which came to be dismissed on 27th January 2015.
2. In the said appeal preferred under Section 72 of the Bombay Public Trusts Act, the applicants/appellants claimed to have initiated inquiry proceedings under Section 22 of the Bombay Public Trusts Act wherein the applicants claimed to have held election and were elected.
3. The inquiry proceedings which were filed at belated stage were taken cognizance by the Assistant Charity Commissioner by condoning the delay and rejected the same vide order dated 30th August 1985.
4. The learned Joint Charity Commissioner, in exercise of powers under Section 70 of the Bombay Public Trusts Act dismissed the Appeal No.71/2005 preferred by the appellants and the said order was further upheld in Misc.Civil Application No.127 of 2009 before the learned Principal District Judge, Beed. Learned Principal District Judge, Beed also rejected the same by order dated 16th March 2011, as such present applicants filed second appeal.
5. While canvassing the question of law at the behest of appellants this Court considered its contentions and dismissed the second appeal having regard to the scope of jurisdiction under Section 100 of the Code of Civil Procedure, which has prompted the present applicants to prefer prefer application for review.

6. Mr Dhorde, learned Senior Counsel in his usual persuasive argument, has urged for remand of the second appeal, as according to him the evidence that was produced, was not taken into account by the Courts below, so also by this Court. He would further urge that in view of law laid down by the Apex Court in the matter of **H.V. Vedavyasachar Vs. Shivshankara & Anr.**, reported in **2009 (11) Scale 31**, the appellants should have been permitted to adduce oral evidence in the matter in support of the evidence adduced by the appellants before the learned Joint Charity Commissioner. He would further urge that the documents vide Article A-1 to A-10 and the evidence of the other witnesses should have been taken into account. The perusal of the judgment delivered by this Court in the second appeal of which the review is sought takes care of all the contentions raised by learned Counsel for the applicants. This Court was alive to the claim of the present applicants as regards the production of additional evidence before the learned Joint Charity Commissioner so also the documents - Article A-1 to A-10.

7. This Court, having noticed that no substantial question of law was involved in the matter, dismissed the second appeal.

8. The scope of review in the matter is required to be taken note of. The Apex Court, in the matter of **Kamlesh Verma Vs. Mayawati and ors.**, reported in **(2013) 8 scc 320** has laid down the following principles while deciding a review application and the cases in which the review is permissible. The relevant observations of the Apex Court are as under :

“20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute.

20.1 When the review will be maintainable:

- (i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;
- (ii) Mistake or error apparent on the face of the record;
- (iii) Any other sufficient reason.

The words “any other sufficient reason” have been interpreted in Chhajju Ram V. Neki and approved by this Court in Moran Mar Basselios Catholicos V. Most Rev. Mar Poulose Athanasius to mean “ a reason sufficient on grounds at least analogous to those specified in the rule”. The same principles have been reiterated in Union of India v. Sandur Manganese & Iron Ores Ltd.”

9. In the light of what has been observed in the foregoing paragraphs and the judgment under the review, in my opinion, no case for review is made out. The application as such, fails stands dismissed.

(N.W. SAMBRE, J.)