

**IN THE HIGH COURT AT BOMBAY  
APPELLATE SIDE, BENCH AT AURANGABAD**

CIVIL APPLICATION NO. 3982 OF 2002  
IN  
CIVIL REVISION APPLICATION NO. 519 OF 1992

Babasaheb s/o. Laxman Tidke  
and others

**....Applicant**

**Versus**

Karbhari s/o. Bapurao More  
deceased through his L.Rs.

1-A. Babu s/o. Karbhari More  
and others

**....Respondents.**

Mr. A.H. Kasliwal, Advocate for applicants.

**CORAM : T.V. NALAWADE, J.**  
**DATED : 11th August, 2015.**

**ORDER :**

1. The proceeding is filed for review of the order made by this Court in Civil Revision Application No. 519/1992 on 20.8.2001. Heard the learned counsel for applicants.

2. Civil Revision Application No. 519/1992 was filed by the present applicants to challenge the order of restitution made under section 144 of Civil Procedure Code against the applicants. Their predecessor in title had filed suit for specific performance of contract and then suit for possession. Both the suits were

decreed in his favour and that decision has become final. During the lifetime of decree holder, present applicants, who are son and daughter and brother of deceased decree holder had filed execution proceeding and in that proceeding, under the order of executing Court possession was given to the present applicants. As it transpired that decree holder was alive, judgment debtor filed proceeding for restitution. The decree holder did not support the applicants and the judgment debtor got the relief of restitution. It is the case of applicants that before handing over the possession to the judgment debtor under the order of restitution, the decree holder died, but due to mistake of advocate, this circumstance was not brought to the notice of the Court. This circumstance was not brought to the notice of this Court and it is the case of applicants that it was mistake due to which the order made by this Court needs to be reviewed.

3. The aforesaid proceeding, Civil Revision Application, was filed against the order made by the Civil Court under section 144 of C.P.C. and so, only propriety and legality of that order was under consideration. After considering the reasons, this Court dismissed Civil Revision.

4. The learned counsel for the applicants placed

reliance on the case reported as **AIR 2005 SC 592 [Board of Control for Cricket India Vs Netaji Cricket Club]** and he drew attention of this Court to paragraph Nos. 89, 90 and 91. The Apex Court has discussed the scope of review. There cannot be dispute over the proposition made by the Apex Court. The aforesaid facts are peculiar and so, this Court holds that review of the matter is not possible.

5. In the result, the application stands dismissed.

**[ T.V. NALAWADE, J. ]**

ssc/