

IN THE HIGH COURT OF BOMBAY AT GOA
CIVIL APPLICATION (REVIEW) NO.33 OF 2014

M/S. ALCON REAL ESTATES PVT. LTD.
THROUGH ITS DIRECTOR,
MR. VICTOR ALBUQUERQUE.APPLICANT

V/S
AGUADA HOMES COOPERATIVE
HOUSING SOCIETY LTD.
THROUGH ITS PRESIDENT AND ANR. ...RESPONDENTS

Mr. S.G. Dessai, Senior Advocate with Mr. D. Pangam, Advocate for the Applicant.

Mr. J. Vaz, Advocate for Respondent No.1.

Mr. Nikhil D. Pai, Additional Government Advocate for Respondent No.2.

CORAM : M.S. SANKLECHA, J.

DATE : 13th APRIL, 2015

P.C. :

This application filed by the original petitioner seeks a review of the order dated 9/10/2014 passed by this Court. By the above order dated 9/10/2014, the applicant's Writ Petition was dismissed. Thus the orders of Registrar of Co-operative Societies and the Minister dismissing the petitioner's application for cancellation of respondent no.1-Society were sustained.

2. The applicant submits that para 5 of the order dated 9/10/2014 contains errors apparent on record as it has proceeded on a basis

which has no foundation in law and the same reads as under:

“5. It is apparent that if a change in category of Society is to be sought, the necessary application in this respect will be required to be moved by majority of the members of the Society after getting necessary resolution passed in the general body of Society. Petitioner, who got the Society registered, accepted its registration as Cooperative Hosing Society for over 10 years. Thereafter, he sought change in categorization. This conduct and facts at hand are rightly evaluated by the first authority namely the Registrar of Cooperative Society and by revisional authority i.e. the State Government.”

3. It is the applicant's submission that the observations that the change in the category of the Society can only be done by majority of members has no foundation in law. In support of the aforesaid contentions reliance was placed upon various provisions including Sections 17 & 21 of the Maharashtra Cooperative Societies Act, 1960 (the Act).

4. Review jurisdiction is not to be lightly exercised as it seeks to disturb an order which has attained finality. It is well settled that review would be exercised only if there is a mistake apparent on record or when new facts are discovered which are not to the knowledge of the party (for no fault of his) seeking a review at the time when the original order came to be passed. A mistake apparent

on the face of the record must not be an error which has to be established by a long process of argument i.e. it must not be debatable.

5. In this particular case, the petitioner is at pains to point out how paragraph 5 of the order dated 9/10/2014 is not correct as it has no basis in law. To establish the same, various provisions of law including Sections 17 & 21 of the Act were sought to be interpreted to establish that the observations/findings in paragraph 5 of order dated 9/10/2014 constitute a mistake apparent on record. In the review jurisdiction I am not to reconsider the merits of the submissions which have already been subject matter of consideration while passing the original order which is now sought to be reviewed. In case the application of law in the order dated 9/10/2014 was not correct, then the proper remedy available to the petitioner was to challenge the same before a higher forum. Further the mistake in the order alleged by the applicant is certainly not a mistake apparent on record as the same is being pointed out on the basis of interpretation of various provisions of the Act. Moreover, the order dated 9/10/2014 has been passed in writ jurisdiction and considering the various facts involved, this Court decided not to exercise its writ jurisdiction in

favour of the petitioner.

6. For the above reasons, no case has been made out to review the order dated 9/10/2014 passed by this Court. Thus, review petition is dismissed. No order as to costs.

M.S. SANKLECHA, J.

NH/-