

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**REVIEW PETITION (ST) NO.6744 OF 2015
IN
WRIT PETITION NO.4797 OF 2013**

Miss Prabha Ganpat Borkar .. Petitioner

In the matter between

Horace Kevin Gonsalves .. Petitioner
(Orig.Applicant)

Vs.

Miss Prabha Ganpat Borkar & Anr. .. Respondents
(Orig.Defendants)

Mr.Rajendra Mishra i/by Mr.Nitesh Acharya for the petitioner.
Ms.Archana Khan for the respondent no.1.
Mr.Rahul Motkari for respondent no.2.

CORAM : R.D. DHANUKA, J.
DATE : 20th July 2015

P.C.:

. By this review petition, the petitioner seeks recall of the order dated 28th January 2015 passed by this Court in Civil Writ Petition No.4797 of 2013 with Civil Application No.2216 of 2014 in Civil Writ Petition No.4797 of 2013 with Civil Application No.2216 of 2014 in Civil Writ Petition No.4797 of 2013 and Writ Petition No.11790 of 2013 and seeks restoration of the Civil Application No.10963 of 2014 in Writ Petition No.11790 of 2014 in file.

2. Mr.Mishra, learned counsel appearing for the review petitioner states that some of the documents which were not available with the review petitioner when the review petition was heard and

decided, could be now obtained by making an application to the Municipal Corporation under the provisions of the Right to Information Act, 2005. If such documents would have been produced by the petitioner for perusal of this Court, this Court would not have passed the order which the petitioner seeks to recall.

3. Learned counsel for the review petitioner does not dispute that the alleged copy of the agreement between the petitioner and M/s. Drago Enterprises was on record of the Trial Court as well as in the writ petitions which were heard at length.

4. Learned counsel appearing for the respondents invited my attention to the order dated 30th March 2015 passed by the Supreme Court in Special Leave to Appeal (C) Nos.4976-4977 of 2015 filed by Mr.Sikandar Suleman Loladiaya against the respondents herein. Learned counsel submits that before this Court, the review petitioner had alleged that the said Mr. Sikandar Suleman Loladiaya was a relative of the petitioner in whose favour an agreement was entered into by the review petitioner. It was submitted before this Court in the writ petition that since the rights were already created in favour of Mr. Sikandar Suleman Loladiaya, the review petitioner had no right, title or interest in the flat in question. It is submitted that since Special Leave to Appeal filed by Mr.Sikandar Suleman Loladiaya has been dismissed by the Supreme Court, the review petition filed for recall of the order dated 28th January 2015 passed by this Court shall not be entertained by this Court.

5. A perusal of the review petition clearly indicates that the review petitioner seeks readjudication of the matter on merits and has

alleged that some of the documents have been wrongly interpreted by this Court and the submissions of the review petitioner were not considered properly. In my view, no such ground can attract the provisions under Order XLVII Rule 1 of the Code of Civil Procedure, 1908. There is no error apparent in the order in question.

6. The learned counsel for the respondents also pointed out that the review petitioner has not complied with the said order passed by this Court thereby directing the review petitioner to pay cost of Rs.50,000/- each to the respondents herein till date though this Court had refused to grant stay of the order passed by this Court. It is for the respondents to adopt appropriate proceedings for non-compliance of the order passed by this Court against the review petitioner.

7. No case is made out for recall of the order dated 28th January 2015 passed by this Court. Review petition is thoroughly misconceived and is accordingly dismissed. No order as to costs.

R.D. DHANUKA, J.