

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
REVIEW PETITION NO.62 OF 2014
IN
CIVIL REVISION APPLICATION NO.81 OF 2011

Shri Suresh Pragji Mirani and Anr.] ... Petitioners

Versus

Shri Maruti Sakharam Prabhane]
(Since Deceased) and Ors.] ... Respondents

Ms. Sunita M. Poddar for Petitioners.
None for Respondents.

CORAM :- M. S. SONAK, J.
DATE :- SEPTEMBER 22, 2015

P. C. :-

1. Heard Ms. Sunita M. Poddar, learned Counsel for Petitioners.

2. Ms. Poddar submitted that this Court, in its order dated 07/02/2011, has admitted that morning newspapers were sold in the suit premises which were otherwise let out for sale of sugarcane juice. This, according to Ms. Poddar, clearly constitutes sub-letting. Even otherwise, Ms. Poddar contends that along with the Review Petition, prayer is made for appointment of a Commissioner to furnish a report

as to whether or not there is indeed sub-letting in respect of the suit premises as well as the extension. According to Ms. Poddar, there are errors apparent on face of record in the order dated 07/02/2011.

3. In my judgment, no case is made out for exercise of review jurisdiction. This Court, in its order dated 07/02/2011, has nowhere admitted that morning newspapers were sold in the suit premises, which were otherwise let out for selling of sugarcane juice. In para 4, this Court has only noted the contention of the Applicant in this regard and further observed that this contention has been negated by two Courts. This Court, in the order dated 07/02/2011, has noted that there are concurrent findings of fact recorded by two Courts to the effect that no ground was made out for eviction and such a concurrent findings of fact were not vitiated by perversity. On this ground, this Court, had declined to exercise revisional jurisdiction. There is no error apparent on face of record.

4. In a review petition, it is not permissible to seek appointment of a Commissioner for the purposes of collecting evidence. Therefore, such a plea cannot be entertained in review jurisdiction.

5. For the aforesaid reasons, this Review Petition is dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed
Order.