

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.2090 OF 2015
IN
WRIT PETITION NO.4373 OF 2014

The Secretary, Shishu Vikas Mandir, Daund,]
Taluka Daund, Dist.Pune-413 801.]
Through its Secretary Shri Ambadas S. Mule.] ... Applicant

Versus

Smt. Seema Ganpat More and Ors.] ... Respondents

Mr. Neel G. Helekar for Applicant.
Ms. Kumud Bhatia for Respondent No.1.
Mr. A. R. Metkari, A.G. P, for Respondent No.4.

CORAM :- M. S. SONAK, J.
DATE :- AUGUST 26, 2015

P. C. :-

1. This Civil Application seeks a recall of the Judgment and Order dated 19/03/2015.

2. One of the grounds for seeking the recall is contained in para 8 of the Civil Application, which reads thus :-

“8. The Applicant therefore states and submits that therefore the advocate of the Petitioner argued only on the technical objections raised by the Petitioner and he did not get the opportunity to argue on merit of the matter.”

3. The aforesaid, is quite a misconceived ground. In the first place, it is not correct to say that only technical objections were raised or that the Applicant did not argue the matter on merits. Secondly, even assuming that technical objection had been raised by the Petitioner in the said petition, nothing precluded the Respondents from meeting with the objections raised and also thereafter making submission on so called merits of the matter. Perusal of the Judgment and Order dated 19/03/2015 would indicate that the same is not based merely upon some technical objections as the Applicant chooses to style the same. The decision is on merits. In case the decision is not acceptable to the Applicant, the Applicant was required to take recourse against the same before the appropriate forum. However, the application for recall of the Judgment, is clearly misconceived.

4. The learned Counsel for Applicant thereafter pointed out that the original Petitioner, in para 2 of her application dated 26/03/2015, made before the Presiding Officer of the School Tribunal, Pune, in Appeal No.22 of 2013, has made an incorrect statement. Assuming that some incorrect statement or rather, inaccurate statement has been made, that by itself is certainly not a ground for recall of the Judgment and Order made by this Court on 19/03/2015. That apart, all that the original Petitioner has stated is that in para 23 of the Judgment and Order dated 19/03/2015, this Court has granted liberty to the Petitioner (Appellant) to revive Appeal No.22 of 2013, depending upon the outcome of the challenge to the impugned order. If para 23 is perused, the learned Counsel for Applicant is right that

this Court has not granted any liberty as such but this Court has merely recorded that liberty appears to have been granted to the original Petitioner to review Appeal No.22 of 2013 depending upon the outcome of the challenge to the impugned order. The learned Counsel for the Applicant did not dispute that the School Tribunal, in its order dated 07/03/2014, had disposed of Appeal No.22 of 2013 with liberty to the original Petitioner to revive the same depending upon the outcome of the challenge to the impugned order. In these circumstances, at the highest, it can be said that the averments in para 2 are inaccurate. However, it does not appear to be a case of some misleading statement having been made by the original Petitioner.

5. Accordingly, no case is made out for recall. The Civil Application is dismissed. In the peculiar facts and circumstances of this case, there shall be no order as to costs.

(M. S. SONAK, J.)