

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**REVIEW PETITION NO.10 OF 2015
IN
SECOND APPEAL NO.378 OF 2014**

Dhansukh Haridas Nanda Petitioner
(Ori. Appellant)

Vs.

Mr. Gopalji Dungarshi Bhanushali Respondent
(Ori. Plaintiff)

Mr. Ashutosh R. Gole, Advocate for the petitioner.
Ms. Gauri Godse, Advocate for the Respondent.

Coram : Smt. R.P. SondurBaldota, J.
Date : 14th July, 2015

P.C.

1 This petition seeks review of the order dtd.28th April, 2015 passed by this court, by which the Second Appeal preferred by the petitioner challenging the concurrent findings of the courts below was dismissed. Mr. Gole, the learned advocate for the petitioner submits that the review is sought on the ground of error of facts apparent on the face of the record. He refers to paragraphs 7 and 8 of the order for the purpose. At paragraph 7, it is observed that the respondent being

admittedly the owner of the suit property, which is an open piece of land, would be deemed to be in possession thereof until the petitioner establishes his actual possession by some overt acts. Mr. Gole submits that the entire suit land is not an open piece of land and that it has four rooms constructed thereon. The record shows that the suit land is essentially an open piece of land and there are four rooms constructed on some portion thereof. This has been considered at paragraph 8 of the order. Therefore, it cannot be said that there is an error of fact apparent on the face of the record.

2 The second argument of Mr. Gole is that the documents of electricity bills, municipal tax bills, water bills and revenue tax bills referred to paragraph 8 of the order are in respect of the entire land including the suit land and not just the portion leased to the petitioner. Therefore, these documents would establish the possession of the petitioner of the entire land. This contention cannot be said to be an error apparent on the face of the record.

3 No case is made out by the petitioner for reviewing of the order. Hence, the writ petition is dismissed.

(Smt. R.P. SondurBaldota, J.)