

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

REVIEW PETITION (ST) NO. 22429 OF 2014

Mr. Murlidhar Sabji Jagtap	}	Petitioner
versus		
Mrs. Varsharani Devendra	}	
Ballal	}	Respondent

Mr. Uday Warunjikar with Mr. S.
Pilankar for the Applicant.

Mr. S. S. Kanetkar for the Respondent.

CORAM :- S.C.DHARMADHIKARI, J.

DATED :- DECEMBER 11, 2015

P.C. :-

With the consent of the Advocates, the Review Petition
itself is taken up for admission.

2) Mr. Warunjikar submits that in the order under
review, this Court has held that there are only two contentions
raised by the Appellant's Advocate. That is incorrect because
throughout, the emphasis was that the Suit in question was
barred by the Law of Limitation. That question and issue was
squarely raised before the Trial Court and the Lower Appellate
Court. My attention is invited to para 22 of the order passed by
the Lower Appellate Court and also the discussion on issue No. 3

in the Trial Court's order in para 13 at page 35 of the paper book. In such circumstances, it is submitted that the order under review should be recalled and this Court ought to admit the Second Appeal, as the same raises substantial questions of law.

3) Mr. Kanetkar would submit that it is impermissible in Review Jurisdiction to go behind the order under review. That would require reference to the complete record. That would amount to rehearing of the Second Appeal. In these circumstances and when the noting in the order cannot be disputed on oral statements, the Review Petition has no substance and must be dismissed.

4) Having heard both sides, I am of the view that there is much substance in the objections raised by Mr. Kanetkar. The Review Petition can by no stretch of imagination be converted into an Appeal or Revision nor can it be a re-hearing of the original or initial cause. If the entire foundation of the Review Petition requires this Court to go behind the order and the reference is also then required to be made to the record, then, it is impermissible in Review Jurisdiction to undertake such an exercise. The Court cannot now find out as to whether indeed any ground or question on the point of limitation was pressed during the course of arguments and whether that would have made any

impact on the ultimate order, as this will reopen the whole case and amount to re-hearing of the Second Appeal. Once this is not permitted in the Review Jurisdiction, then, there is no merit in the Review Petition. It is accordingly dismissed.

(S.C.DHARMADHIKARI, J.)