

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2804 OF 2015
IN
REVIEW PETITION (STAMP) NO. 24140 OF 2015
IN
WRIT PETITION NO. 7512 OF 2014

Prakash H. Motwani & Anr.	..	Applicants
VS.		
Bombay Khadi & Village Industries Association	..	Respondents

None for Applicants.
None for Respondent.

CORAM : M. S. SONAK, J.
DATE: 12 OCTOBER 2015

P.C. :-

- 1] None for the Applicants. Civil application seeks condonation of delay of 35 days in filing the review petition. There are really no grounds as such set out in the civil application. However, considering the circumstance that the order of which, the review is applied for was made on 26 June 2015, when neither the parties nor their counsel had appeared, the delay of 35 days is condoned.
- 2] Civil application is disposed of in terms of prayer clause (a).

3] Again, neither the Petitioners nor their Advocate appears. Upon condonation of the delay, the review petition is perused. There is no error apparent on face of record demonstrated. The grounds urged in the review petition, are more in the nature of appeal. Therefore, no case is made out to review the order dated 26 June 2015, review petition is dismissed.

After this order was dictated in the open Court, Mr. Deokar, the learned counsel for the Review Petitioner appeared at 5.00 p.m. and requested for opportunity to argue the matter.

4] In the interest of justice, Mr. Deokar was heard for considerable length of time. In his submissions in the review petition, he disclosed that P.S.C.C. Appeal No. 8 of 2013, in which the order dated 21 February 2014 was made by the Appeal Court, has itself been disposed of. This Court, by its order dated 26 June 2015 had upheld the order dated 21 February 2014, which in any case was to operate only during the pendency of P.S.C.C. Appeal No. 8 of 2013. Now that the appeal has itself been disposed of, there is absolutely no reason to entertain this review petition. This is an additional ground for dismissal of the review petition.

5] However, Mr. Deokar is right in his submissions that none of the observations in the order dated 21 February 2014, made by the

Appeal Court or for that matter the order dated 26 June 2015 made by this Court as well as the present order should in any manner, influence the Trial Court which is determining the issue of mesne profits. It is therefore clarified that the observations in the said orders were only in the context of determining reasonable compensation pending the appeal. The orders were made on the basis of *prima facie* material produced on record by the parties. Therefore, none of the observations in the said orders should influence the Trial Court which is determining issue of mesne profits. The issue of mesne profits to be decided in accordance with law and on its own merits. Further, Mr. Deokar has pointed out that as against the dismissal of P.S.C.C. Appeal No. 8 of 2013, the Respondents have already instituted a civil revision application before this Court. Therefore, the determination of mesne profits shall obviously be subject to any orders that may be made in the said civil revision application.

6] Review petition is accordingly disposed of in the aforesaid terms.

(M. S. SONAK, J.)