

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 822 OF 2014  
WITH  
CIVIL APPLICATION NO. 459 OF 2014

Dnyaneshwar P. Rakshe & Ors. .. Petitioners  
VS.  
Maruti Y. Rakshe & Ors. .. Respondents

Mr. M. M. Gandhare for Petitioners.  
None for Respondents.

**CORAM : M. S. SONAK, J.**  
**DATE: 18 MARCH 2015**

**P.C. :-**

1] This civil revision application impugns order dated 22 March 2012, by which the petitioners application to lead additional evidence has been rejected.

2] Proviso to Section 115 of the Code of Civil Procedure, 1908, reads thus :

*“Provided that in respect of cases arising out of original suits or other proceedings of any valuation, decided by the District Court, the High Court alone shall be competent to make an order under this section:*

*Provided further that the high Court or the District Court shall not, under this section, vary or reverse any order including an order deciding an issue, made in the course of a suit or other proceeding, except where,-*

*(i) the order, if so varied or reversed, would finally dispose of the suit or other proceeding; or*

*(ii) the order, if allowed to stand, would occasion a failure of justice or cause irreparable injury to the party against whom it was made :*

*[Provided also that where a proceeding of the nature in which the District Court may call for the record and pass orders under this section was pending immediately before the relevant date of commencement referred to above, in the High Court, such Court shall proceed to dispose of the same.]”*

3] Even if this revision application were to be decided in favour of the petitioners, the same will not dispose of the appeal or other proceedings. Therefore, in view of the aforesaid proviso, the present revision application would not be maintainable.

4] Accordingly, revision application is dismissed. There shall be no order as to costs.

5] In view of the disposal of the revision application, civil application no. 459 of 2014 does not survive and is disposed of.

**(M. S. SONAK, J.)**