

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

**CIVIL APPLICATION (REVIEW) NO.2 OF 2015
IN
FIRST APPEAL NO.382 OF 2012**

1. Pant Nagar Mahatma Phule
Co-op. Hsg. Society Ltd.
(A Co-operative Hsg. Society
Registered under the provisions of
the Maharashtra Co-operative
Societies Act, 1960) having
address at MHB. Bethi chawl,
Ambedkar Chowk, Opp. Bldg.
No.66, Chawl No.1, Room No.1 to 8
Pant Nagar, Ghatkopar (East),
Mumbai-400 075.
2. Kumari Renu Singh Mamchand
Age 24 years, occ. Tailor
MHB, Bethi Chawl,
Opp. Bldg. No.66, Chawl No.1,
Room No.1/1, Pant Nagar,
Ghatkopar (East),
Mumbai-400 075.
3. Nanendra Charne Vaid
Son of Late Shrimati Shiskore
Charne Vaid, age 45 years
Occ. Rickshaw Driver, MHB
Bethi Chawl, Ambedkar Chowk,
Ambedkar Chowk, Opp. Bldg.
No.66, Chawl No.1, Room No.1/2,
Pant Nagar, Ghatkopar (East),
Mumbai-400 075.
4. Mamchand Omprakash

Age 54 years, occ. Business
MHB, Bethi Chawl,
Ambedkar Chowk, Opp. Bldg. No.66,
Chawl No.1, Room No.15, Pant Nagar,
Ghatkopar (East),
Mumbai-400 075.

5. Kumari Nitu Singh Lubana
Age 30 years, occ. Service.
MHB, Bethi Chawl,
Ambedkar Chowk, Opp. Bldg.No.66,
Pant Nagar, Ghatkopar (East),
Mumbai-400 075.

6. Shrimati Shikshadevi Mamchand,
Age 52 years, occ. Housewife.
MHB. Bethi Chawl,
Ambedkar Chowk, Opp. Bldg. No.66,
Chawl No.1, Room No.1/7,
Pant Nagar, Ghatkopar (East),
Mumbai-400 075.

7. Shri Sundersingh Lubana
Age 32 years, occ. Service.
MHB, Bethi Chawl,
Ambekar Chowk, Opp. Bldg. No.66,
Chawl No.1, Room No.1/8,
Pant Nagar, Ghatkopar (East),
Mumbai-400 075.

.. Applicants.
(Orig. Appellants.)

In the matter between :

1. Pant Nagar Mahatma Phule
Co-op. Hsg. Society Ltd.
(A Co-operative Hsg. Society
Registered under the provisions
of the Maharashtra Co-operative
Societies Act, 1960) having

address at MHB. Bethi Chawl
Ambedkar Chowk, Opp. Bldg. No.66,
Chawl No.1, Room No.1 to 8,
Pant Nagar, Ghatkopar (East),
Mumbai-400 075.

2. Kumar Renu Singh Mamchand
Age 24 years, occ. Tailor
MHB. Bethi Chawl,
Ambedkar Chowk, Opp. Bldg.
No.66, Chawl No.1, Room No.1/1,
Pant Nagar, Ghatkopar (East),
Mumbai-400 075.
3. Nanendra Charne Vaid
Son of Late Shrimati Shiskore Charne
Vaid, Age 45 years, occ. Rickshaw
Driver, MHB Bethi Chawl
Ambedkar Chowk, Opp. Bldg.No.66,
Chawl No.1, Room No.1/2,
Pant Nagar, Ghatkopar (East),
Mumbai400 075.
4. Satbir Itwari
Age 74 years. Occ. Retired
MHB. Bethi Chawl,
Ambedkar Chowk, Opp. Bldg. No.66,
Chawl No.1, Room No.1/3,
Pant Nagar, Ghatkopar (East),
Mumbai-400 075.
5. Mamchand Omprakash
Age 54 years, occ. Business,
MHB, Bethi Chawl,
Ambedkar Chowk, Opp. Bldg. No.66,
Chawl No.1, Room No.1/5,
Pant Nagar, Ghatkopar (East),
Mumbai-400 075.
6. Kumari Nitu Singh Lubana
Age 30 years, occ. Service.

MHB. Bethi Chawl,
Ambedkar Chock, Opp. Bldg. No.66
Chawl No.1, Room No.1/6
Pant Nagar, Ghatkopar (East)
Mumbai-400 075.

7. Shrimati Shikshadevi Mamchand
Age 52 years, occ. Housewife.
MHB. Bethi Chawl,
Ambedkar Chowk, Opp. Bldg. No.66,
Chawl No.1, room No.1/6,
Pant Nagar, Ghatkopar (East),
Mumbai-400 075.
8. Shri Sundersingh Lubana
Age 32 years, occ. Service.
MHB. Bethi Chawl, Ambedkar Chowk,
Opp. Bldg. No.66, Chawl No.1,
Room No.1/8, Pant Nagar,
Ghatkopar (East),
Mumbai-400 075.

.. Appellants.
(Orig.Plaintiffs)

Versus

1. Maharashtra Housing and
Area Development Authority
Through its Vice President,
Grihanirman Bhavan, Bandra (East)
Mumbai-400 051.
2. Mumbai Housing & Area Development
Board, A MHADA Unit,
Through its Chief Officer
Grihanirman Bhavan, Bandra (East)
Mumbai-400 051.
3. Assistant Land Manager-Kurla Taluka
Mumbai Housing & Area Development
Board, Grihnirman Bhavan,
Bandra (East), Mumbai-400 051.

4. Slum Rehabilitation Authority
Through its Chief Executive Officer,
Having office at Anant Kanekar Marg
Bandra (East), Mumbai-400 051.
5. Ghatkopar Septic Tank Gurukrupa
Co-operative Hsg. Society Ltd.
Through its Chairman/Secretary.
(A. Co-operative Hsg. Society
Registered under the Provisions of
the Maharashtra Co-operative
Societies Act, 1960)
Pant Nagar, Ghatkopar (East),
Mumbai-400 075.
6. Abhini Developer Pvt Ltd.
Through its Directors,
149/156, Garodia Shopping Centre
Garodia Nagar, Ghatkopar (East)
Mumbai-400 077.
7. Municipal Co-operative for Greater
Mumbai.
Through its Municipal Commissioner
MCGM Head Office, Mahapalika Marg,
CST, Mumbai-400 001.

.. Respondents.
(Orig. Defendants)

Mr. Tushar Kochale a/w Altaf Khan i/b Anjali Awasthi, for
Petitioners.

Ms. Aparna Murlidharan h/f Mr. P.G. Lad, for Respondents No.1
to 3.

Ms. Pallavi Jadhav h/f Mr. Jagdish Reddy, for Respondent No.4.

Ms Armin Wandrewala a/w Ms. Dwari Bhatt i/b J.P. Kar, for
Respondent No.5.

Mr. V.A. Thorat, Senior Counsel a/w S.B. Pawar, Swati Sawant
i/b S.K. Legal Associates, for Respondent No.6.

Mr. M.R. Bhoir i/b R.A. Malandkar, for Respondent No.7.

Coram : Smt. R.P SondurBaldota, J.
Date : 27th April, 2015

P.C.

1. The applicants seek review of the order dtd. 1st December, 2014, by which their First Appeal was dismissed. The application for review was filed on 9th December, 2014. Pending the application, they approached the Apex Court on 9th January, 2015 by way of Special Leave Petition (SLP) only to withdraw it on 6th February, 2015. Pending the SLP i.e. on 21st January, 2015, they had mentioned the review application for urgent orders on 3rd February, 2015. However, no circulation was granted on that day as the applicants had not removed the office objections and the application was not given a regular number. This would mean that the applicants had simultaneously resorted to two remedies, one was of review of the order of this Court and other was of challenge to the order in the Higher Court. It is obvious that it was plainly a gamble played by them. Such conduct on the part of the applicants needs to be deprecated.

2. The applicants have listed as many as 23 errors as the errors of law and fact apparent on the face of the record. Mr. Thorat, the learned Senior Counsel for respondent No.6 and Ms. Wandrewala, the learned counsel for respondent No.5 submit

that all the grounds for review taken by the applicants were infact grounds for challenge to the order in the SLP.

3. A bare look at the grounds of review is sufficient to know that same are argumentative and do not fall in the category of error apparent on record, which can be corrected without hearing detailed arguments as regards the facts alleged and the law applicable thereto. Therefore, the review application is not maintainable. If the applicants feels aggrieved by the findings or the conclusions drawn by this Court, the remedy available to the applicants would be only to challenge the same in the Higher court. Also the grounds taken in the review application and the grounds taken in the SLP being identical, the review application would amount to abuse of process of law.

4. Mr. Kochale, the learned advocate for the applicants submits that either challenge of the SLP or dismissal of SLP or withdrawal of SLP cannot affect the right of the petitioner to seek review of the order. He has relied upon the following decisions of the Apex Court to support his argument. :-

- 1. Kunhayammed And ors. Vs. State of Kerala and Anr, reported in (2000) 6 Supreme Court Cases 359.**

- 2. Board of Control for Cricket in India and anr. Vs. Netaji Cricket Club and ors, reported in (2005) 4 Supreme Court Cases 741.**
- 3. Ahmedabad Manufacturing & Calico Printing Co., Ltd Vs. Workmen and Anr., reported in (1981) 2 Supreme Court Cases 663.**

There is no dispute about the proposition advanced and hence, the decisions need not to be considered in detail. Nonetheless, since the applicants have failed to make out case of error apparent on the face of the record, which can be corrected within the scope of review of the order, the Review Application is dismissed with costs. The applicants shall pay costs quantified at Rs.25,000/- to each respondent, except respondents no.1 to 3. The costs to respondents no. 1 to 3 shall be paid in one set.

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