

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
REVIEW PETITION (STAMP) NO.34324 OF 2014

Punita Co-operative Housing Society Limited.] ... Petitioner/
Applicant

Versus

Dr. (Mrs.) Sundri R. Mirani and Ors.] ... Respondents

Mr. Shane Sequeira i/b Mr. Gaurav Parkar for Petitioner.
Mr. R. B. Singh i/b S. P. Srivastava for Respondent Nos.4, 5 & 6.

CORAM :- M. S. SONAK, J.
DATE :- JUNE 29, 2015

P. C. :-

1. By this Petition, the original Petitioner seeks a review of Judgment and Order dated 09/10/2014 as corrected on 07/11/2014.
2. The learned Counsel for Review Petitioner basically made the following three submissions :-
 - (a) That in para 24 of the Judgment and Order, although there is reference to correspondence on record in establishing any case of breach under Section 29 of the said Act, such correspondence was not in fact taken into consideration;

- (b) That the finding in paras 12 and 19 of the Judgment and Order has been vitiated by discovery of a document which is a letter addressed by Mirani to Respondent No.4 styling the said Respondent as an unlawful occupant of the suit premises;
- (c) There is an error in recording the Respondent Nos.4 to 6 as protected licensees in respect of the entire suit premises which is a 2 BHK apartment, when in fact, the leave and license agreement dated 27/05/1971, to which reference is made in para 11 of the Judgment and Order, makes reference only to a 1 BHK apartment. In this regard, reliance was placed on the decision of the Hon'ble Apex Court in the case of *Mani Nariman Daruwala V/s. Phiroz N. Bhatena and Ors.*¹ to contend that in respect of the premises which are not covered by a license, no protection from eviction can be claimed or granted.

3. Insofar as the last contention of the learned Counsel is concerned, the same was not raised at the stage when the matter was initially argued. At this stage, it is not possible to go into the issue as to whether the suit premises corresponds in their entirety to the premises reflected in the leave and license agreement dated 27/05/1971. It does not appear that such a contention was even raised before the trial Court.

¹ AIR 1991 SC 1494

4. Insofar as the first two contentions are concerned, the same do not constitute ground for any review. There is no real basis to urge that the correspondence on record was not considered by this Court. That apart, in returning the finding referred to in paras 12 and 19, due credence was given to the material on record. On basis of alleged discovery of some letter from Dr.Mirani, the effect of the proceedings in standard Rent Application No.73/SR of 75 instituted by Mr.Balam cannot be ignored.

5. Accordingly, no case is made out for exercise of review jurisdiction. The Review Petition is dismissed.

(M. S. SONAK, J.)