

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

MISC. CIVIL APPLN. (REVIEW) NO.1432 OF 2014

Smt.Mayadevi W/o Kanchedilal Jain

-vs-

Vilas Nirmalkumar Joharapurkar and another

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

None for the appellant.
Mr.M.R.Joharapurkar, Adv.for the respondents.

CORAM : Z. A. HAQ, J.

DATE : 27.01.2015.

1) This is an application filed by the original respondents in the second appeal praying for review of the order passed by this Court on 25/08/2014. The original respondents contend that the observations recorded by this Court in paragraph No.3 of the order passed on 25/08/2014 that the lane which was the subject matter of the civil suit is recorded as of ownership of the Government in the records maintained by the City Survey Department, are not in accordance with the judgments passed by the sub-ordinate Courts.

2) Notice of this application was issued on 29/11/2014. None appears for the original appellant, though served.

3) Heard Shri M.R.Joharapurkar, learned advocate for the original respondents and examined the record with his assistance.

4) I find that the submission made on behalf of the original respondents about the observations recorded in paragraph No.3 of the order passed on 25/08/2014 is proper.

Hence, paragraph No.3 of the order passed on 25/08/2014 be substituted by following paragraph No.3(a).

“3(a) Though the contention of the learned advocate is that the lane which was the subject matter of the civil suit is of ownership of the Government in the records maintained by the City Survey Department, the learned advocate for the appellant has not been able to substantiate this contention. The sub-ordinate Courts did not frame any issue on this point i.e. whether the lane which was the subject matter of proceedings before the sub-ordinate Courts is of the ownership of Government. The learned advocate for the appellant has not been able to point out that the appreciation of evidence by sub-ordinate Courts is perverse. In view of this, there is no scope for interference under Section 100 of Civil Procedure Code with the findings of fact recorded by the trial Court. The second appeal is dismissed.”

The above corrections be carried out in the order passed by this Court in Second Appeal No.304 of 2012 on 25/08/2014 by deleting the paragraph No.3 and substituting it by paragraph No.3(a), as stated above.

The review application is allowed accordingly. In the circumstances, parties to bear their own costs.

JUDGE