

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**48 CIVIL APPLICATION NO. 136 OF 2004
IN
SA/380/2000**

**PRADEEP SANDULAL JAISWAL
& ORS**

VERSUS

**BABULAL MANNULAL BHARUKA
& ORS**

.....

Mrs. C.S.Deshmukh, Advocate for Applicants.

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CORAM : T.V.NALAWADE, J.

DATE : 13th JUNE, 2016

ORAL ORDER :-

. The application is filed for review of the Order made by this Court on 10/06/2003 in Second Appeal No. 380 of 2000. This Court dismissed the Appeal by holding that no substantial question of law as such is involved. Heard learned counsel for the applicants.

2. It appears that the Suit filed for declaration that the sale deed executed by father of the applicants/plaintiffs in favour of defendant No. 1 is not binding on the plaintiffs and it needs to be set aside, is dismissed by the trial Court and the

decision is confirmed by the first appellate Court. This Court observed that the plaintiffs had filed Suit only in respect of one plot sold by defendant No. 3, the father, to defendant No. 1 and other transactions made in respect of many plots were not challenged by the plaintiffs. It is also observed that there is sizable property of this family and so the father could have sold the property which may come to his share and it is not open for the plaintiffs to prevent the father from selling the property. Further, the father did not appear in the Suit and ex-parte order was made. Thus, apparently the Suit was collusive in nature and it was not bonafide. By making observations in respect of these circumstances, this Court dismissed the Appeal. There is no scope to review the said decision.

3. Learned counsel for the applicants placed reliance on the case reported in 2011 (1) ALL MR 346 [The Designers Co-Op. Hsg. Soc. V/s Udhav s/o Murlidhar Rasne & Ors.] and submitted that the Court below had wrongly put the burden of proof when it was for the defendant to prove that the transaction was not made for legal necessity. These circumstances could not have changed the fate of the matter in view of the aforesaid circumstances.

4. Review Application stands rejected.

[T.V.NALAWADE, J.]

