

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

903 REVIEW APPLICATION (CIVIL) NO. 126 OF 2016
IN SA/465/2012

MADHUKAR RAMCHANDRA WANI(DIED) LRS GOPAL
AND ORS
VERSUS
SULOCHANABAI GOPALKRUSHNA WANI (DIED) LRS
GOPALKRUSHAN PANDHARINATH WANI AND ORS

Shri. K.H. Dhuldhwaj, Advocate, for applicants.

CORAM: T.V. NALAWADE, J.

DATE : 22 JULY 2016

ORDER:

1) Delay is condoned. The application is filed for review of the order made by this Court in Second Appeal No.465/2012. Heard learned counsel for the applicants/appellants.

2) Learned counsel for the applicants submitted that following points are not considered by this Court:-

(i) Ramchandra, the person who gave gift to his wife was not absolute owner of the property.

(ii) The gift could not have given absolute ownership to the wife of Ramchandra in view of provisions of the Hindu Law.

(iii) Delivery and acceptance of possession etc of the property is not proved for the gift.

(iv) There was right of maintenance to the issues of Ramchandra and so that maintenance was charge on the estate.

3) Aforesaid points are already dealt with by this Court while making the order. Learned counsel for the applicants submitted that in view of the provisions of old Sastrick Hindu law the widow could not have become absolute owner of the property under the gift. Even if it is presumed that she was not absolute owner, under section 14 of the Hindu Succession Act she would have become absolute owner.

4) When gift was made, the parties were living together and she was in possession and so there is no force in the other contentions that possession was not handed over. Further the transaction of gift could not have been challenged that way as it was more than 30 years old transaction. The point that Ramchandra was not absolute owner has also no force as in Hindu law there is no presumption that the property is of the joint

Hindu family though there may be presumption that there is joint Hindu family. After considering the material, this Court came to conclusion that there is no substantial question of law involved in the matter and the appeal is dismissed.

5) The aforesaid decision could have been challenged by filing appropriate proceedings in the Supreme Court. It appears that only to consume time the present proceeding is filed. Learned counsel requested for giving time and for stay to the execution. This prayer is rejected. No such stay was given when appeal was dismissed. The application is rejected.

Sd/-
(T.V. NALAWADE, J.)

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