

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

**Review Application No.174 of 2008
In
Second Appeal No.873 of 2006**

Bapurao s/o Bhaurao Chaunshette
And Another.

.. Applicants.

Versus

Vijaykumar s/o Bhaurao Chaunshette
And Others.

.. Respondents.

Shri. V.M. Maney, Advocate, holding for Shri. Milind Patil,
Advocate, for applicants.

CORAM: T.V. NALAWADE, J.

DATE : 14th JUNE 2016.

ORDER:

1) The application is filed for review of the order made by this Court on 11th September 2009 by which Second Appeal No.873 of 2006 is dismissed by holding that no substantial question of law as such is involved. Heard learned counsel for the applicants.

2) The suit was filed against the present applicants and others for relief of partition. The applicants

took defence that there was partition effected in the past and so the suit for partition is not tenable. Both the Courts below held that the previous partition is not proved. One document was executed but this document is not accepted as the document of partition by the Courts below and it is also observed that the persons who are entitled to get share in the property were not party to the document. No evidence was given to show that this document was acted upon and there was separation of shares of the persons who are entitled to get share in the property. In view of these circumstances, the suit is decreed. There was no dispute over the extent of share to which each party is entitled.

3) The learned counsel for the applicants placed reliance on a case reported as **2004 CJ (SC) 609 (K.G. Shivalingappa v. G.S. Eswarappa)**. The facts of the reported case were altogether different.

4) The findings are on question of facts and they are concurrent findings. In view of this, this Court held that no substantial question of law as such is involved and

dismissed the appeal. There is no possibility of review of this order. The review application is dismissed.

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

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