

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

REVIEW (CIVIL) APPLICATION NO. 158 OF 2016
WITH
CIVIL APPLICATION NO. 11394 OF 2016
IN
SECOND APPEAL NO. 502 OF 2000

Gangaram s/o. Vishwanath Survase
and Ors.

....Petitioners

Versus

Vishwanath s/o. Gangaram Survase
and Ors.

....Respondents.

Mr. S.V. Jadhav, Advocate for petitioners.

Mr. B.N. Patil, Advocate for respondent Nos. 2 and 3.

WITH
REVIEW (CIVIL) APPLICATION NO. 159 OF 2016
WITH
CIVIL APPLICATION NO. 11395 OF 2016
IN
SECOND APPEAL NO. 368 OF 2001

Gangaram s/o. Vishwanath Survase
and Ors.

....Petitioners

Versus

Vishwanath s/o. Gangaram Survase
and Ors.

....Respondents.

Mr. S.V. Jadhav, Advocate for petitioners.

Mr. B.N. Patil, Advocate for respondent Nos. 1 & 2.

CORAM : T.V. NALAWADE, J.
DATED : 23rd September, 2016.

ORDER :

1. The review applications are filed against common judgment and decree of Second Appeal Nos. 502/2000 and 368/2001. Civil applications are filed for permission to file review applications against the same decision by the applicants of these proceedings. Both the sides are heard.

2. The suit was filed by review applicants to challenge the transactions made by their father Vishwanath in respect of immovable properties. Real brother of defendant No. 1 Vishwanath and one purchaser contested the suit. In the first appeals, the District Court had held that the properties which were given to defendant Nos. 2 and 3 by Vishwanath were lost by the family of plaintiffs due to adverse possession. It was also held that the transactions made by defendant No. 1 were made for legal necessity. This decision is confirmed by this Court in second appeals.

3. The points mentioned in the review applications are already dealt with by this Court while deciding the second appeals. The sisters of plaintiffs in other proceeding have contended that they were not parties to the suit and so, they

need to be given an opportunity to file review applications. As the suit was filed by brothers of these applicants, that suit was in the interest of all of them and if there was Joint Hindu Family, brothers were representing these sisters also. This Court has observed that there was apparent collusion between plaintiffs and their father Vishwanath, defendant No. 1 in the suit. Thus, the said suit was not against the interest of the sisters of the plaintiffs. If the plaintiffs had succeeded, the sisters would have got share in the properties. Further, any member was entitled to challenge the so called alienation made by the father, Karta. In view of these circumstances, this Court holds that only to protract the things, the review applications are filed by sisters, applicants. In the result, both the review applications are dismissed. Civil applications are also dismissed.

[T.V. NALAWADE, J.]

SSC/