

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

901 REVIEW APPLICATION (CIVIL) NO. 192 OF 2016
IN SA/322/2013 WITH CA/12826/2016 IN RA/192/2016

SHAIKH ABDUL RAZZAK SHAIKH AHMED AND OTHERS
VERSUS
SHAIKH YUNUS SHAIKH AHMED AND OTHERS

Shri. R.L. Kute, Advocate, for applicants.

Shri. Mujtaba Gulam Mustafa, Advocate, for respondent
No.11.

CORAM: T.V. NALAWADE, J.

DATE : 22 SEPTEMBER 2016

ORDER:

1) The proceeding is filed for review of the judgment delivered by this Court in Second Appeal No.322 of 2013 which is decided along with Civil Application No.10204/2016. Heard learned counsel for the review applicants.

2) The application is filed on the ground that this Court has not considered the documents produced along with Civil Application No.10204/2016. In para 10 this

Court has discussed the relevant material including one will dated 3-11-1997 and the circumstances that Regular Civil Suit No.145/1993 was filed by the so called donor. On the basis of those circumstances, this Court has held that it is not probable that the disputed property was given by Hibinama by the deceased father in favour of defendant Nos.1 and 2. The findings are given by the Courts below against defendant No.1 and 2 and those findings are the findings of facts and no substantial question of law as such was involved in the second appeal.

3) Learned counsel for the applicants submitted that this Court has committed some mistake and the entire property bearing Survey No.408 was not shown to be bequeathed in the will and only some portion was shown to be bequeathed but this Court has made some observations to the effect that the entire property was shown to be bequeathed. Learned counsel for the applicants submitted that if the record of Hibinama is taken into consideration the fate of the matter may change. It is second appeal and in second appeal at such stage such new case or new material could not have been

considered and in any case the relevant circumstances are considered and as the findings of the Courts below are the findings of question of facts, existence or non existence of Hibanama also involves question of fact and so it needs to be presumed that Civil Application No. 10204/2016 is rejected by this Court. There is no possibility of review of the order. The said order was made by this Court on 21-7-2016. Present proceeding came to be filed on 20-8-2016. It appears that the review applicants want to get more time. In view of these circumstances, the review application is rejected. Civil Application is disposed of.

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

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