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

**REVIEW APPLICATION NO.5 OF 2016
IN
WRIT PETITION NO.2102 OF 2015**

Rukhminibai Kushaba Rithe & ors. ..APPLICANTS

VERSUS

Sudhir Jagmohandas Mehta & ors. ..RESPONDENTS

Mr P.G. Godhamgaonkar, Advocate for applicants;
Mr Anand Bhandari, Advocate for respondents no.1 & 2

CORAM : N.W. SAMBRE, J.

DATE : 2nd February, 2016

ORDER :

While deciding Writ Petition No.2102 of 2015, preferred by the applicants, this Court has gone into the order passed in Regular Civil Suit No.539 of 2015, pending at the behest of the present applicants as plaintiffs, by ordering impounding of the general power of attorney dated 26th September, 2014, for payment of appropriate stamp duty. The said order was questioned in the writ petition, which came to be dismissed by a reasoned order dated 3rd December, 2015.

2. While relying upon the provisions of section 31 of the Indian Contract Act, Mr P.G. Godhamgaonkar, learned Counsel appearing on behalf of the applicants/original petitioners-plaintiffs would urge that in case of contingent contract, the general power of attorney need not to be a

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registered document and as such, impounding is not proper. According to him, it is only after happening of an event as provided under section 31 of the Contract Act, the Court can order impounding, in case the applicant fails to pay the requisite stamp duty.

3. The submissions are objected by learned Counsel appearing on behalf of respondents no.1 & 2.

4. In my opinion, the application for review, on the above referred legal submissions, does not call for any interference on the grounds; (a) that the provisions of section 31 of the Indian Contract was not an issue which was pleaded or brought to the notice of the Court when this Court dismissed the writ petition on 3rd December, 2015.

5. Apart from above, as regards not raising a plea of contingent contract, this Court was alive to the provisions of Article 48 of the Maharashtra Stamp Act and relevant Rules framed thereunder and has formed an opinion that the order impounding the general power of attorney was just and proper. This Court has already recorded the findings on merits of the matter.

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6. In the light of above, no case for interference in exercise of review jurisdiction is made out. Thus, Review Application fails and stands rejected with no order as to costs.

(N.W. SAMBRE, J.)

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