

IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION (REVIEW) NO. 1 OF 2015

IN

SECOND APPEAL NO. 38 OF 2005

CABIDO DA SE PRIMACIAL DE GOA
REP.BY ITS ATTORNEY FR. JAIME
COUTO.

... Applicant

Versus

SHRI PEDRO FERNANDES AND ANR.

... Respondent

Mr. M. B. De Costa, Senior Advocate with Ms. Betquecar Karishma
Custa, Advocate for the petitioner.

Mr. D. Pangam, Advocate for respondents No.1 & 2(a) to 2(m).

Coram:- SMT. R. P. SONDURBALDOTA, J.

Date:- 2nd December, 2016

P.C.:

This petition seeks review of the Judgment dated 26th August, 2014 by which the second appeal filed by the petitioner was dismissed. The review of the Judgment is sought on three grounds as set out in the review petition. Bare reading of grounds (a) and (c) is sufficient to know that the same patently fall beyond the purview of Section 114 of the Civil Procedure Code. The grounds stated therein are in the nature of challenge to the Judgment under review.

2. By ground (b), the petitioner contends that there is an error apparent on the face of record.

3. Mr. M.B. De Costa, learned Senior Advocate appearing for the petitioner submits that though the specific case with which the appellant had approached the Court that he is the owner of the land by prescription i.e. being in its possession for a substantially long period, the Judgment under review considered the case of adverse possession.

4. Undisputedly, the plaint as filed by the petitioner refers only to claim by adverse possession. Besides, the substantial question of law framed at the time of admission of the appeal on 16th February, 2006 do not cover this aspect of the matter. It was also open for the petitioner to make an application to the Court at the time of hearing of the second appeal in the year 2014 that an additional substantial question of law was required to be framed. Since, no such application was made at the relevant time, the petitioner now cannot be permitted to raise the same by way of review petition.

5. The review petition is, therefore, dismissed.

SMT. R. P. SONDURBALDOTA, J.

ssm.