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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION***

CIVIL APPLICATION NO. 127 OF 2016

in

SECOND APPEAL NO. 605 OF 2005

Mr. Sabaji Vishram Chamankar
Since deceased through legal heirs.

... Applicants.
(Orig. Respondents)

V/s.

Mr. Narayan Yashwant Pednekar & Anr.

... Respondents.
(Orig.Appellants.)

Mr. P.M. Arjunwadkar for the Applicants.

Mr. V.V. Pai a/w. Ms. Shakuntala Mudbidri for the Appellants in SA
605/05.

CORAM : N.M. Jamdar, J.

22 April, 2016.

P.C. :-

The Application is taken out with a prayer that the order dated 26 June 2015, passed by the learned Single Judge (R.K. Deshpande, J.), be reviewed or recalled.

2. By order dated 26 June 2015, the learned Judge after hearing the Advocate for the Review Petitioner who represented the Respondents therein passed the following order :-

“ In terms of order dated 24 September 2007, more particularly paragraph nos. 21 and 23 therein it is no in dispute that the issue of tenancy arises in the present case. The learned counsel for the appellants submits that the following issue regarding tenancy arises for consideration :

(i) Whether the Appellant Nos. 1 to 3 on one hand and the Appellant No.4 on the other hand prove their tenancy right over the suit property ?

2. The Lower Appellate Court was required to frame the aforesaid issue and then refer the matter to tenancy Court to decide it in accordance with law. The matter is, therefore, referred to the Tahsildar Vengurla for deciding the aforesaid issue of tenancy. The record and proceedings be forwarded to the Tahsildar Vengurla for recording his findings on such issue and return the same back to this Court. The issue be decided within a period of eight months from the first appearance of the parties before the Tahsildar. The parties to appear before the Tahsildar Vengurla on 20 July 2015.

3. It is informed that the Tahsildar Vengurla has already recorded some part of evidence. In view of this, he shall proceed to record the further evidence.”

3. The parties were directed to appear before the Tahsildar Vengurla on 20 July 2015.

4. This application thereafter filed on 16 October 2015. The learned Counsel for the Respondent opposes. He states that the matter was fully heard and order was passed, The application is placed before me since Justice R.K. Deshpande is not available at the principal seat at present. If he was available, the review application would have been

placed before him for consideration. There is absolutely no reason as to why the application was not moved till the learned Judge was available or at least before 20 July 2015 which was the date fixed by the learned Judge. In many cases it is noticed that such applications are only for re-hearing the matters when the concerned learned Judges are not available.

5. There could be cases where the Applicants have genuine reason for the delay. In the present case no reason given at all as to why the review was not moved when the learned Judge was available. Since the order was passed after hearing both the sides and there is no explanation at all for delay till October 2015. All that I see is an attempt to seek re-hearing on the same issue which was determined by order dated 26 June 2015, before some other Judge. Such practices cannot be countenanced. The Civil Application stands rejected.

(N.M. Jamdar, J.)