

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****REVIEW PETITION NO. 16 OF 2016****IN****SECOND APPEAL NO. 441 OF 2014****Babaji Raoji Pandharkar****..... Petitioner****VERSUS****Balu Maruti Bhakare & Ors.****..... Respondents**

Mr.R.D.Soni, a/w. Mr.V.R.Kasle, i/b. M/s.Ram & CO. for the Petitioner/Appellant in Second Appeal.

Ms.Anjali Helekar for the Respondent no.6.

CORAM : R.D. DHANUKA, J.**DATE : 4th OCTOBER, 2016****P.C.**

By this review petition, the review petitioner (original appellant) in Second Appeal No.441 of 2014 seeks recall/review/modification of the order dated 9th September, 2014 passed by this court holding that the relief of specific performance of the contract was rightly denied by the two courts below in favour of the appellant (original plaintiff). Mr.Soni, learned counsel for the review petitioner invited my attention to some of the findings recorded by the two courts below and would submit that this court could not have rejected the second appeal insofar as relief for specific performance denied by the two courts below is concerned at the stage of admission. He submits that this court did not consider the entire evidence in proper prospective while making such observations insofar as relief of specific performance of the contract is concerned.

2. A perusal of the order dated 9th September, 2014 indicates that this court has held that the relief of specific performance of the contract is rightly denied by the

two courts below after examining the reasons given by the courts below. This court observed that the court below had passed a decree and judgment which was with well reasoned findings. This court held that there was no reason to interfere with the decree and judgment refusing specific performance of the contract.

3. With the assistance of the learned counsel for both the parties, I have also perused myself the reasonings recorded by the two courts below and the pleadings and oral evidence to which my attention was invited by the learned counsel appearing for the parties on the issue of specific performance.

4. Though this court had already recorded a finding and conclusion insofar as refusal of the relief of the specific performance by the two courts below is concerned, in my view after considering the oral and documentary evidence as well as pleadings, even otherwise I don't find any infirmity in the order judgment and decree passed by the two courts below insofar specific performance of the contract is concerned.

5. In my view no case is made out for recall of the order dated 9th September, 2014, there is no error apparent on the face of the order passed by this court.

6. Review petition is misconceived and is accordingly passed. No order as to costs.

(R.D.DHANUKA, J)