

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

REVIEW PETITION NO.1 OF 2016

IN

CIVIL REVISION APPLICATION NO.331 OF 2015

Messrs Miscellenary Marketers Pvt. Ltd. .. Petitioners

Versus

Messrs Sun-N-Sand Pvt. Ltd. .. Respondents

WITH

REVIEW PETITION NO.2 OF 2016

IN

CIVIL REVISION APPLICATION NO.335 OF 2015

Messrs Miscellenary Marketers Pvt. Ltd. .. Petitioners

Versus

Messrs Sun-N-Sand Pvt. Ltd. .. Respondents

Ms. Zenobia S. Irani, for the Petitioners in both the Review Petitions.

**Mr. P. S. Dani, Senior Advocate i/by Lex Firmus, for the Respondents
in both the Review Petitions.**

CORAM : R.M. SAVANT, J.

DATE : 5th FEBRUARY 2016

PC.

1. The above Review Petitions have been filed seeking review of the judgment and order dated 8th January 2016. The grounds on which the review is sought are in paragraph 11(a) to 11(h). In so far as the

ground 11(a) is concerned, the grievance of the Petitioners is that though the Division Bench judgment in Smita Rajeev Shah and another Vs. Roop Narian and another reported in 2013(6) Bom. C. R. 193 has been referred to in the judgment under review the said judgment has not been dealt with nor the Court has dealt with the issue as to whether the suit was maintainable having regard to prayer clause (a). In so far as the said aspect is concerned, in paragraph 22 of the judgment under review, the said contention or ground raised on behalf of the Review Petitioners has been dealt with. The said paragraph for the sake of ready reference is reproduced hereinunder :-

“22. In so far as the contention urged on behalf of the Applicants that the LE & C suit for the relief sought vide prayer clause (a) was not maintainable having regard to Section 19(h) of the PSCC Act. In my view, there is no substance in the said contention as the said LE & C Suit has been filed essentially for seeking possession of the suit premises and therefore prayer clause (a) though seeking a declaration loses its significance. The said relief of possession is therefore referable to Section 41(h) of the PSCC Act and therefore, the bar of Section 19(h) of PSCC Act does not come in the way of the maintainability of the suit.”

2. Though the Division Bench judgment has not been specifically referred to, in the light of the finding that has been recorded in paragraph 22, the case of the Petitioners based on the said judgment has been rejected, implicit in the said finding is the fact that the said judgment does

not aid the Petitioners. In so far as the grounds “(b) to (h)” are concerned, by raising the grounds the Review Petitioners virtually want to re-argue the above Civil Revision Applications. Entertaining the said grounds would also amount to this Court sitting in Appeal over its own judgment. The same is therefore impermissible. Hence, having regard to the grounds raised in the Review Petitions, no case for review under any of the eventualities mentioned in Order 47 of the Civil Procedure Code is made out. The Review Petitions are accordingly dismissed.

[R.M. SAVANT, J]