

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
REVIEW PETITION ST.NO. 1546 OF 2016
IN
CIVIL REVISION APPLICATION NO.401 OF 2015**

Navinchandra Chabildas	..Petitioner
Vs.	
Kamlesh Singh Harnamsingh Chowhan	..Respondent

Mr. Zubin Kamdin a/w Ms Jeniffer M. a/w Mr. Jayesh Rathod i/b Mr. D. H. Shah for the Petitioner
Mr. Vivek Kantawala a/w Mr. Amey Patil i/b Vivek Kantawala & Co. for the Respondent

CORAM : R. M. SAVANT, J.
DATE : 4th FEBRUARY, 2016

P.C.

1 By an order passed today in Civil Application No.35 of 2016 the delay of 15 days in filing the above Review Petition was condoned.

2 By the above Review Petition, review is sought of the order dated 2-12-2015 passed in the above Civil Revision Application by which order the Civil Revision Application has been dismissed. By the dismissal of the Civil Revision Application, the decree passed by the Appellate Bench of the Small Causes Court has been confirmed. The review is sought on the ground that the partition decree passed in the Suit concerning the owners of the property has not been given due consideration. In so far as the said aspect is concerned, paragraph 5 of the order dated 2-12-2015 reads as under:

“5. It was lastly sought to be contended that the very locus of the Plaintiff to file the suit is in question, having regard to the fact that the property is already partitioned and the suit premises have not come to the share of the Plaintiff in the partition. The said aspect has also been dealt with by the Lower Appellate Bench of the Small Causes Court who has held that the proceedings relating to partition are pending in the Apex Court and as yet the property belonging to the family has not been partitioned by metes and bounds. It would therefore have to be held that the Petitioner who is a co-owner is entitled to file the suit for eviction. In the light of the findings which have been recorded by the Appellate Bench of the Small Causes Court, the exercise of the Revisionary Jurisdiction of this Court is not warranted. The Civil Revision Application is accordingly dismissed.”

2 The said aspect has therefore been dealt with by the courts below as well as by this Court. In my view, no case for review under any of the eventualities mentioned in Order 47 of the Civil Procedure Code is made out. The Review Petition is accordingly dismissed.

3 At this stage, the Learned Counsel for the Petitioner prays for stay of the decree of possession operating against the Petitioner. Whilst dismissing the above Civil Revision Application a period of 8 weeks was granted by this Court to enable the Petitioner herein to approach the Apex Court. The said period is coming to an end tomorrow i.e. 5-2-2016. In my view, the intention behind filing of the above Review Petition is obvious. Hence no further extension can be granted. The prayer is accordingly rejected.

[R.M.SAVANT, J]