

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO. 106 OF 2016
IN
WRIT PETITION NO.11504 OF 2013

Ganpat T. Kambale
since deceased through his Legal
Heirs Smt. Rahibai G. Kambale
and ors.

.. Petitioners

vs.

Majid Ali Isram Ali Kureshi and ors.

.. Respondents

Mr. Sumit V. Khaire for the Petitioners.
None for the Respondents.

CORAM : M. S. SONAK, J.
DATE : 11 AUGUST 2016.

P.C. :-

1] This review petition seeks review of the order dated 13 January 2016, by which, Writ Petition No. 11504 of 2013 instituted by the petitioners came to be dismissed.

2] One of the grounds for dismissal of the writ petition was that there was delay of over 13 years in institution of the petition. Learned counsel for the petitioners now submits that there was similar delay in institution of Second Appeal (St.) No. 294 of 2012, which delay was however condoned by this Court by its order dated 27 January 2014. On this ground, learned counsel for the review

petitioners urges that the order dated 13 January 2016 is required to be reviewed, since non consideration of the order dated 27 January 2014 constitutes an error apparent on the face of record.

3] Having heard learned counsel for the review petitioners, perused the record, including in particular, the order dated 27 January 2014, in my judgment, no case is made out to entertain the present review petition. The order dated 27 January 2014, was not produced before this Court, when writ petition came to be dismissed. In any case, upon perusal of the order dated 27 January 2014, it is not at all clear as to what reasons weighed the learned Judge in condoning the delay. That apart, the order dated 13 January 2016 make references not just to the ground of delay, but also to the circumstance that the three authorities had concurrently held against the petitioners. The order also makes reference to dismissal of the second appeal instituted by the petitioners. Incidentally, by order dated 27 January 2014, the delay in institution of such second appeal came to be condoned. There is accordingly, no case is made out for seeking review.

4] Learned counsel for the review petitioners submits that the second appeal was dismissed on the ground of adverse decision made by the Maharashtra Revenue Tribunal on 6 April 1998, which decision was in fact impugned in writ Petition No. 11504 of 2013. At this stage, the decision dismissing the second appeal is not on record. In any case, if the order dated 6 April 1998 was so vital to the success of second appeal, the petitioners should have been much more diligent in instituting the petition within a reasonable period. At this stage, there is no case made out to exercise review jurisdiction.

5] This review petition is therefore, dismissed. There shall, however, be no order as to costs.

(M. S. SONAK, J.)

dinesh