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

CIVIL APPLICATION NO. 105 OF 2016

IN

REJECTED CASE NO. 598 OF 2016

IN

SECOND APPEAL NO. 221 OF 2012

Mrs. Rukhminibai Bapu Khadtare
(since deceased) and Anr.

... Applicants/Appellants.

V/s.

Shivaji Hanumant Shinde
(deceased through Legal Heirs) & Ors.

... Respondents.

Mr. Macchindra Patil i/b. Vijay Garad for the Applicants/Appellants.

CORAM : N.M. Jamdar, J.

15 July, 2016.

P.C. :-

Heard learned Counsel for the parties. Sufficient cause is made out for restoration of the Review Petition. The Application is allowed in terms of prayer clauses (a), (b) and (c).

2. The Review Petition is restored to file and taken up forthwith for consideration.

3. The learned Counsel for the Appellant submitted that the issue of counter-claim has not been discussed in the order under review. He also submitted that the finding rendered as regard the sale deed dated 15 December 1983 is also not correct. I have gone through the order under review. The arguments that have been advanced have been dealt with by the learned Single Judge at the time of disposal of the Appeal. The learned Single Judge confirmed the concurrent findings that the Plaintiff had failed to establish that the said property was ancestral property. The scope of review is well settled. The arguments so advanced and the point taken in the Review Petition do not constitute grounds for exercise power of review. Under the grab of review, the Appellate power cannot be used neither the party is permitted to re-argue the matter. No case is made out to review the order dated 5 August 2015. The Review Petition is accordingly rejected.

(N.M. Jamdar, J.)