

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
REVIEW PETITION NO.31 OF 2014
IN
SECOND APPEAL NO. 80 OF 2014

Ganpat Tukaram Kambale,
Since deceased through his legal heirs & Ors. Petitioners

VERSUS

Majid Ali Isram Ali Kureshi & Ors. Respondents

Mr.Sumit Khaire for the Petitioners.

Mr.R.N.Sanghavi for the Respondents.

CORAM : R.D. DHANUKA, J.

DATE : 19th SEPTEMBER, 2016

P.C.

By this review petition, the review petitioners seeks recall of the order dated 24th February, 2014 passed by this court in Second Appeal No. 80 of 2014 dismissing the said second appeal.

2. It is submitted by the learned counsel for the review petitioners that his clients are in possession of the suit property and seeks to place reliance upon the averments made in the written statement made by the original plaintiff. He also placed reliance on the letter dated 8th August, 2016 issued by the Talathi in support of his submission that even that letter would indicate that his clients are in possession of the suit property.

3. The first appellate court on proper appreciation of the evidence on record has held that the plaintiff had failed to prove his possession on suit land, much less

lawful possession. This court while dismissing the second appeal has also rendered a finding that while deciding the issue of possession, the first appellate court discussed the evidence at length and recorded a clear finding of facts that the plaintiff was not in possession of the suit property.

4. In my view, there is no averments made in the order passed by the first appellate court. The review petition is thoroughly misconceived and is dismissed quantified at Rs.10,000/- which shall be paid by the review petitioners to the respondents within two weeks from today.

[R.D. DHANUKA, J.]