

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
REVIEW PETITION NO. 73 OF 2016
IN
WRIT PETITION NO.1420 OF 2016**

Abdul Sattar s/o Abdul Balaqi
Farooqui

Petitioner

Vs

A.H.Wadia Charitable Trust

.. Respondents

Mr.A.A.Siddiquie, Advocate for Petitioner.

Mr. Yahya Goghari a/w Pratik V. Shah and Priyanka Variath i/b Vigil
Juris, Advocate for Respondents.

CORAM : R.G.KETKAR,J.

DATE : 28/04/2016

PC:

1. Heard Mr.A.A.Siddiquie, learned counsel for the petitioner and Mr Yahya Goghari, learned counsel for the respondents at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioner has sought review of the order dated 28.3.2016 passed by this Court in Writ Petition No.1420 of 2016.

3. Mr. Siddiquie submitted that Writ Petition No.1420 of 2016 was instituted by the petitioner challenging the Judgment and order dated 27.10.2015 passed by the learned Judge, presiding over Court No. 2, of City Civil Court at Mumbai, Borivali Division, Dindoshi, Goregaon, Mumbai in Chamber Summons No.136 of 2015 in S.C.Suit No.299 of 2005. The said Chamber Summons was taken out by the plaintiff for deletion of the word 'Charitable' in the cause title of the plaint and for impleading the Trustees of

the defendant-Trust.

4. Mr. Siddiqui submitted that in paragraph 3 of the order dated 28.3.2016 in that petition, it was averred that photocopy of the order dated 18.3.2016 passed by the learned trial Judge in Chamber Summons No.187 of 2016 was tendered. The said order was taken on record and marked "X" for identification. In paragraph 4 of that order, it is recorded that paragraph 42-A of Schedule of Amendment to the Chamber Summons No.187 of 2016 was taken on record and marked "Y" for identification. It was further recorded that photocopy of the proceedings before the Charity Commissioner where permission to sue the defendant-Trust by order dated 22.10.1999, was tendered and was taken on record and marked "Z" for identification. Mr. Siddiqui submitted that inadvertently the order dated 18.3.2016 was tendered on record. He submitted that order dated 28.3.2016 in Writ Petition No.1420 of 2016 suffers from error apparent on the face of record and deserves to be reviewed.

5. On the other hand, Mr. Goghari supported the order. He submitted that the plaintiff applied for twofold amendments, namely, deletion of the word "Charitable" in the cause title of the plaint and for impleadment of the Trustees. By order dated 27.10.2015, the learned trial Judge rejected the application. He submitted that no case is made out for reviewing the order.

6. I have considered the rival submissions made by the learned counsel appearing for the parties. I have also perused the order dated 27.10.2015 passed by the learned trial Judge in Chamber Summons No.836 of 2015. After considering the submissions and material on record, I do not find that any case is made out for reviewing the order.

7. In the case of Kamlesh Verma Vs Mayavati, 2013 SC 3301, the Apex Court has observed as under :

“The jurisdiction and scope of review is not that of an appeal and it can be entertained only if there is an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning can hardly be said to be an error apparent on the face of the record justifying the Court to exercise its power of review. A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected, but lies only for patent error. Error contemplated under the rule must be such which is apparent on the face of the record and not an error which has to be fished out and searched. It must be an error of inadvertence. The power of review can be exercised for correction of a mistake but not to substitute a view. “

8. In view thereof, Review Petition fails and the same is dismissed. Order accordingly.

(R.G.KETKAR, J.)