

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
REVIEW PETITION NO.35 OF 2016
IN
WRIT PETITION NO.5903 OF 2014**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr.Schin J. Kadam, Advocate for Petitioner.

CORAM : R. G. KETKAR, J.

DATE : 21/10/2016

P.C.:

1. Heard Mr.Sachin Kadam, learned Counsel for the petitioner, at length.
2. By this Review Petition under Section 114 read with Order XLVII Rule 1 of C.P.C., the petitioner has sought review of the order dated 24.6.2015 passed by this Court in Writ Petition No.5903/2014.
3. In support of this Petition, Mr. Kadam has invited my attention to application Exhibit-15 made by the petitioner / plaintiff under Order XIV of C.P.C. for framing following issue. "Whether the defendant has established that there was partition by metes and bounds."
4. Mr. Kadam also invited my attention to the written statement at Exhibit-10 filed by the defendant and in particular paragraphs-6 and

14. In paragraph-6 the defendant claimed that the partition between the plaintiff and the defendant in respect of property described in Schedule-A was effected in the year 1972 during the lifetime of Nana Raut. In paragraph-14, the defendant contended that the properties described in Schedule B are in possession of the plaintiff and the defendant and they are enjoying those properties. It is, therefore, necessary to find out whether the partition of the properties described in Schedule B is effected or not. He submitted that while disposing of the Writ Petition, this Court has not considered the assertions made in para-14 of the written statement and, therefore, application Exhibit-15 made by the plaintiff deserves to be allowed thereby reviewing the order dated 24.6.2015.

5. I have considered the submissions advanced by Mr.Kadam. I have perused the material on record. Writ Petition No.5903/2014 was disposed of on 24.6.2015. In paragraph-3 of the order the issues framed by the learned trial Judge were noted. In paragraph-6, a specific finding was recorded that issue No.B covers the issue which is suggested by the plaintiff in the application Exhibit-15. In view thereof, it cannot be said that the assertions

made in paragraph-14 of the written statement of the defendant were not considered. Hence, no case is made out for reviewing the order dated 24.6.2015. Review Petition fails and the same is dismissed.

(R. G. KETKAR, J.)