

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

**REVIEW PETITION (ST) NO. 22996 OF 2016
IN
WRIT PETITION NO.7156 OF 2016**

Sarwar Rahiman Kothiwale and
Ors

..Petitioners.

Vs

Bhalchandra S.Chakranarayan
and Ors

.. Respondents

Mr. J.S.Kini, i/b Suresh Dubey, Advocate for Petitioners.
Mr. T.D.Deshmukh, Advocate for Respondents.

**CORAM : R.G.KETKAR,J.
DATE : 16/09/2016**

PC:

1. Heard Mr. J.S.Kini, learned counsel for the petitioners and Mr. T.D.Deshmukh, learned counsel for the respondents at length.
2. By this Petition, the petitioners seek review of the order dated 8.8.2016 passed by this Court in Writ Petition no. 7561 of 2016 and to clarify that the matter is remitted to the appellate court only for the purpose of deciding point no.4 afresh.
3. Mr.Kini submitted that first sentence of paragraph 6 records that Mr Dubey was unable to defend the impugned order. He, therefore, apprehends that the appellate court will not deal with grounds of eviction under sections 13(1)(k), 13(1)(g) and 13(1)(b) of the Act. It is not possible to accept this submission as if decree of eviction can be sustained even on solitary ground this Court

would have dismissed the petition and would not have relegated the parties to the appellate court.

4. Mr. Deshmukh has invited my attention to paragraphs 5 and 6 of the order dated 8.8.2016 and submitted that no case is made out for reviewing the order. I find merit in his submission. At the same time, it is clarified that the appellate court will decide the appeal uninfluenced by the observations made in the order under review as it was passed by consent of the parties.

5. In the case of **Kamlesh Verma Vs. Mayawati**, AIR 2013 Supreme Court 3301, it is observed by the Apex Court 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. “

Applying the tests laid down by the Apex Court to the present case, I do not find that there is any error apparent on the face of the record or that any mistake is committed warranting its correction. Hence, Review petition fails and the same is dismissed.

(R.G.KETKAR, J.)