

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
REVIEW PETITION NO.18 OF 2015
IN
SECOND APPEAL NO. 400 OF 2012

Jayawant Ramchandra Patil & Ors. Petitioners

VERSUS

Marutirao Bapuso Chavan & Anr. Respondents

Mr.Sandeep Koregave for the Petitioners.

Mr.Surel Shah for the Respondents.

CORAM : R.D. DHANUKA, J.

DATE : 4th OCTOBER, 2016

P.C.

By this review petition, the review petitioners seek recall of the order dated 5th August, 2014 passed by this court dismissing the Second Appeal No.440 of 2012 filed by the review petitioners on the ground that even if the other mortgagors were not parties to the suit, redemption could be ordered in respect of the share of the plaintiffs.

2. A perusal of the record indicates that no such argument was advanced before this court when the second appeal was heard.

3. A perusal of the appeal memo filed by the review petitioners indicates that the appellants had raised an issue that the first appellate court had committed error in holding that all persons who are interested in the mortgage property should be necessary party. A perusal of the order passed by this court indicates that this court had considered the said submission made by the review petitioners and has

rejected the same after adverting the judgment of this court in case of ***Adivappa Channappa Kittur vs. Rachappa Balappa Hosmane, AIR (35) 1948 Bombay 211.***

4. Learned counsel appearing for the review petitioners invited my attention to the judgment of Supreme Court in case of ***Chhaganlal Keshavlal Mehta vs. Patel Narandas Haribhai, 1982 AIR (SC) 121*** and in particular paragraph 17. A perusal of the said judgment relied upon by the learned counsel for the review petitioners clearly indicates that the said judgment assist the case of the respondents and not the review petitioners.

5. Though Shri Justice R.K.Deshpande was in Mumbai twice after the review petition is filed by the review petitioners, the matter was not moved before Shri Justice R.K.Deshpande.

6. Be that as it may, after hearing the learned counsel for the review petitioners and the learned counsel for the respondents, in my view no case is made out for recall of the order passed by this court. The review petition is totally devoid of merits and is dismissed with cost quantified at Rs.10,000/- which shall be paid to the Legal Service Authority within four weeks from today. A receipt of the payment of cost shall be produced before the Associate of this court on making such payment.

(R.D.DHANUKA, J)