

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION (STAMP) NO. 23595 OF 2015

IN

WRIT PETITION NO. 2883 OF 2012

WITH

REVIEW PETITION (STAMP) NO. 23586 OF 2015

IN

WRIT PETITION NO. 2884 OF 2012

WITH

REVIEW PETITION (STAMP) NO. 23600 OF 2015

IN

WRIT PETITION NO. 589 OF 2014

Rishi Enterprises & Ors.

.. Petitioners

VS.

M/s. Western India Steel Traders
Warehousing Co.

.. Respondents

Mr. Rajiv Deokar for Petitioners.
None for Respondents.

CORAM : M. S. SONAK, J.

DATE: 22 APRIL 2016

P.C :

1] Heard Mr. Rajiv Deokar, learned counsel for the review petitioners.

2] Learned counsel for the review petitioners has submitted that this Court, has committed an error apparent on face of record, by relying upon the decisions of the Hon'ble Supreme Court in ***Atma Ram Properties (P) Ltd. vs. Federal Motors (P) Ltd.***¹ and

¹ (2005) 1 SCC 705

State of Maharashtra & Anr. vs. M/s. Super Max International Pvt. Ltd. & Ors.², in as much as the review petitioners are not or were not the tenants of the respondents. He has submitted that there is no authenticated agreement establishing any such relationship between the original plaintiff and the original defendant. He has submitted that the review petitioners were in fact obstructionists and therefore the principle in case of ***Atma Ram Properties*** (supra) and ***Supermax International Pvt. Ltd.*** (supra) could never have been invoked. On these grounds, learned counsel for the review petitioners submitted that the order dated 16 July 2015 made by this court is required to be reviewed.

3] Mr. Deokar, learned counsel for review petitioners, even before he made the aforesaid submissions, very fairly made a statement that since, the review petitioners did not comply with the directions contained in order dated 16 July 2015, in the matter of deposit of Rs.6,00,000/-, the interim order granted in their favour, stood vacated and the eviction decree has been executed by the decree holder. Learned counsel however submitted that appropriate application has been filed for seeking re-possession and on this basis, he submitted that the review petitioners are desirous of pursuing the present review petitions.

2 2009 (5) ALL MR 1001

4] Having heard learned counsel for the review petitioners, in my judgment, no error apparent on face of record has been established. These very arguments, were raised at the stage when the order dated 16 July 2015 came to be made. The review petitioners are not entitled to re-argue the matter at the stage of invocation of exercise of review jurisdiction. Review, as held by the Hon'ble Supreme Court in ***Delhi Administration vs. Gurdip Singh Uban & Ors.***³ is not an appeal in disguise.

5] From the record, it is quite clear that the petitioners had applied for and obtained a stay of the eviction decree. In any case, despite the eviction decree, the review petitioners desire to continue in possession of the suit premises. In these circumstances, the review petitioners, cannot claim for unconditional interim relief. The review petitioners were accordingly directed to deposit some reasonable compensation in the matter of occupation of the suit premises, notwithstanding the eviction decree. There is clearly no error apparent on face of record warranting exercise of review jurisdiction. The review petitions are therefore, dismissed.

6] At the hearing of these review petitions, Mr. Chuarmal Mehtani and his son Mr. Rishi Mehtani have attempted to disturb today's proceedings. Mr. Rishi Mehtani refused even to answer

3 (2000) 7 SCC 296

simple questions like whether he or his father Mr. Chuharmal Mehtani were parties to the original proceedings. It now turns out that Mr. Rishi Mehtani as well as Mr. Chuharmal Mehtani were not even parties to the original proceedings. The conduct of the two persons, in repeatedly disturbing the court proceedings, *prima facie*, constituted contempt of court calling for action under the Contempt of Courts Act, 1971. However, considering the age of Mr. Chuharmal Mehtani, which age, it is evident, his son Mr. Rishi Mehtani seeks to exploit, no action is being taken.

7] Further, it was made quite clear to Mr. Rishi Mehtani and Mr. Chuharmal Mehtani that in case they have any grievance, it is open to them to take out appropriate proceedings before the appropriate forum for seeking redressal of their grievance. It was also made clear to the said two persons that it is not at all proper to disturb judicial proceedings in such a manner.

(M. S. SONAK, J.)