

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

903 CIVIL APPLICATION NO. 3797 OF 2017
IN RAST/2842/2017 IN WP/9872/2014

TARABAI TIKAMDAS NEVE
VERSUS
RAKESH SUDHAKAR NEVE

...
Advocate for Applicant : Mr. V.B. Patil
AGP for Respondent/State : Mrs. P.V. Diggikar
...

CORAM : T.V. NALAWADE, J.
DATED : June 15, 2017.

ORDER :

. The application is filed for review of the oral judgment delivered in Writ Petition No. 9872/2014 and also for condonation of delay caused in filing the review application. The person who is seeking condonation of delay is required to show to the Court that there is atleast some case in the matter. In view of this circumstance, the learned counsel for the applicant was asked to show that there is something in the matter to argue.

2. The learned counsel took this Court through some observations made by this Court at para No. 4 of the aforesaid judgment. He submitted that it is a case of plaintiff that there was oral agreement. He submitted that if it was oral agreement, then provisions of section 53-A of Transfer of Property Act ('the

Act' for short) cannot be used. The learned counsel submits that due to the observations made by this Court that if there is agreement of sale, the provisions of section 53-A of the Act can be used, the Trial Court may go with the presumption that the relief can be given under section 53-A of the Act. It can be said that this is misconception. Basically for getting that relief, the party is required to show that there was agreement as required under section 53-A of the Act and then other conditions are required to be satisfied. This Court holds that such clarification will be sufficient and there is no need to review the judgment when the suit is filed for relief of injunction on various ground and when the party is claiming to be in possession of the immovable property. There is nothing to argue in the main matter and for that, there will be no necessity to issue notice also in delay condonation application. The application stands rejected with aforesaid observations.

3. In view of the age of the defendant which is more than 65 years, the Trial Court is expected to decide the matter expeditiously and in any case, within six months from the date of receipt of this order.

[T.V. NALAWADE, J.]

SSC/