

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

**REVIEW PETITION [ST] NO.20678 OF 2017
IN
WRIT PETITION NO.3793 OF 2017**

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. Rahul P. Walvekar, Advocate for the Petitioner.
Ms. K.R. Kulkarni, AGP for the State.
Mr. S.S. Patwardhan, Advocate a/w. Bhushan Mandlik, Advocate for respondent No.3.

CORAM : R. G. KETKAR, J.

DATE : 27/07/2017

P.C.:

1. By consent of parties, Review Petition is taken up for admission. Heard Mr. Rahul P. Walvekar, learned Counsel for the petitioner, Ms. K.R. Kulkarni, learned AGP for the State and Mr. S.S. Patwardhan, learned Counsel for respondent No.3, at length.

2. By this Petition under Section 114 read with Order XLVII of C.P.C., the petitioner has sought review of the order dated 20.4.2017 passed by this Court in W.P. No.3793/2017. That Petition was instituted by the petitioner herein challenging the

judgment and order dated 29.9.2016 passed by Deputy Charity Commissioner, Kolhapur Region, Kolhapur as also the judgment and order dated 9.3.2017 passed by the Joint Charity Commissioner, Kolhapur Region, Kolhapur. By these orders, the authorities below directed the petitioner herein to produce the documents sought by the first respondent as per application dated 24.8.2016 at Exhibit-4.

3. Mr. Walvekar submitted that in paragraph-3 of the order dated 20.4.2017, the statement made on behalf of the petitioner that the petitioner will produce the documents as ordered by Deputy Charity Commissioner vide order dated 29.9.2016 before him on the next date of hearing, was recorded. He submitted that the petitioner did not give instructions to the Advocate to make the statement. He, therefore, submitted that the order dated 20.4.2017 requires to be recalled as it was passed upon the concession made by the petitioner's Advocate who was not authorized to make concession.

4. Mr. Walvekar further submitted that respondent No.3 had instituted Misc. Application No.59/2016 before the Deputy Charity Commissioner, Kolhapur Region, Kolhapur. Pending

that application, she filed application Exhibit-17 for directing the petitioner to produce the documents. Respondent No.3 withdrew Misc. Application No.59/2016 as also application Exhibit-17. As the prayers made application Exhibit-17 and the prayers made in application Exhibit-4 are identical and respondent No.3 having withdrawn unconditionally application Exhibit-17, the authorities below were not justified in allowing the application.

5. On the other hand, Mr. Patwardhan submitted that no case is made out for reviewing the order dated 20.4.2017. He submitted that as the elections were conducted, respondent No.3 withdrew Misc. Application No.59/2016. He has also invited my attention to the orders passed by the authorities below and submitted that the Petition requires to be dismissed.

6. I have considered the rival submissions advanced by learned Counsel appearing for the parties. I have also perused the material on record. As noted earlier, by order dated 29.9.2016, the Deputy Charity Commissioner, Kolhapur Region, Kolhapur directed the petitioner to produce on record the documents sought by third respondent. While allowing that application, the Deputy Charity Commissioner noted that the petitioner has not

denied possession of the documents sought by third respondent. Deputy Charity Commissioner also observed that the objection of the petitioner pertaining to audit report and accounts of the trust, excepting these documents rest of the documents are relevant for deciding the Change Report.

7. Aggrieved by this decision, the petitioner instituted Revision Application before the Joint Charity Commissioner. Before the Joint Charity Commissioner, the petitioner submitted that the documents being bulky agreed upon to have inspection and also supply copies of the required documents at the Trust office. Respondent No.3 submitted that she being a lady shall not have free inspection of documents in the Trust office and prayed for direction to the petitioner to produce the documents before the Court. As according to the petitioner the record is bulky, the Joint Charity Commissioner, therefore, directed the Inspector attached to the office of the Joint Charity Commissioner to visit the Trust and take in custody the list of documents called upon to be produced before the Court and shall return the same in the Trust office.

8. It is in that context, the Advocate for the petitioner had made statement before this Court that the petitioner will produce the documents sought for by third respondent before the Court. Even

otherwise I do not find that the Advocate who made statement was not justified in making that statement. A perusal of the order passed by this Court on 20.4.2017 also provided for contingency that in the event of the petitioner not producing the documents on the next date of hearing before the Deputy Charity Commissioner, Kolhapur Region, Kolhapur, the order dated 9.3.2017 shall stand revived without further reference to the Court.

9. In the case of *Kamlesh Verma Vs. Mayawati*, *AIR 2013 SC 3301*, the Apex Court held that 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.

10. Applying the tests laid down in the above case to the facts of the present case, no case is made out for review of the order dated 20.4.2017. Hence, Review Petition fails and the same is dismissed. Order accordingly.

(R. G. KETKAR, J.)