

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

**REVIEW PETITION NO.25 OF 2017
IN
WRIT PETITION NO.2534 OF 2016**

**Mr. Pradeep Bhalchandra Keer
Versus
Commissioner of Police,
For Greater Mumbai and others**

..Petitioner

..Respondents

Mr. C. N. Chavan for the Petitioner.

**Mr. A. M. Khandekar i/by M/s. Tamhane & Co., for the Respondent
No.4.**

CORAM : R. M. SAVANT, J.

DATE : 17th FEBRUARY, 2017

PC.

1 By an order passed today in Civil Application No.33 of 2017 the delay in filing the Review Petition is condoned. By consent of the Learned Counsel for the parties the Review Petition is taken up for hearing.

2 By the above Review Petition, review is sought of the order dated 22.02.2016 passed in the above Writ Petition. By the said order, the above Writ Petition came to be dismissed and resultantly, the order dated 27.07.2015 passed by the Learned Judge of the Small Causes Court, Mumbai came to be confirmed. By the said order dated 27.07.2015 the application Exh.18 filed by the Respondent No.4 herein for her

impleadment came to be allowed by the Learned Judge of the Small Causes Court. The Respondent No.4 is a co-owner of the property in question. The suit has been filed by another co-owner for eviction of the tenant. The Learned Judge of the Small Causes Court as indicated above has allowed the said application which has been confirmed by the said order dated 22.02.2016 of which review is sought. This Court has held that a co-owner is a “proper party” to the suit in question and has therefore confirmed the impleadment of the Respondent No.4 who is the co-owner.

3 The Learned Counsel appearing on behalf of the Petitioner seeks to re-argue the matter and places reliance on the judgment of the Apex Court in (1976) 4 SCC 184 in the matter of Sri Ram Pasricha Vs. Jagannath and others as also judgment of the Apex Court in (2016) 3 SCC 296 in the matter of Kasthuri Radhakrishnan and others Vs. M. Chinnian and another as also the Division Bench judgment of this reported in 1983(2) BCR 71 in the matter of Hiralal Vithaldas Gujarathi and others Vs. Namdeo Mahadu Jadhav.

4 Apart from the fact that the judgments in *Kasthuri Radhakrishnan's* case (*supra*) and *Hiralal Vithaldas Gujarathi's* case (*supra*) were not cited before this Court at the hearing of the Writ Petition. In my view, the said judgments would not further the case of the

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Petitioner for review of the order dated 22.02.2016, as this Court has held that the co-owner is a “proper party” to the suit filed by another co-owner. Hence, no case for review in any of the eventualities mentioned in Order 47 of the Civil Procedure Code is made out. The Review Petition is accordingly dismissed.

[R.M.SAVANT, J]