

Sequeira

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

REVIEW PETITION NO. 20 OF 2015
in
CIVIL APPLICATION NO. 1199 OF 2010

Shri Babasaheb Shahaji Patil .. Petitioner
Vs
Shri Nagnath Tulshiram Takbhate & anr. .. Respondents

in
SECOND APPEAL NO. 432 OF 1994

Sridhar Shambaji Mote .. Appellant
Vs.
Nagnath Tulshiram Takbhate .. Respondent

Mr.A.B.Tajane, for Petitioner in R.P No.20 / 2015.

Mr.B.A.Lawate, for Respondent No.1.

Mr.Sharad Bhosale, for Respondent No.2.

Coram : N.M.Jamdar, J.
Date : 24 April 2017.

Oral Order:

By this Review Petition, the Petitioner has sought review of the order dated 30 June 2015 passed in Second Appeal. Heard learned counsel for the parties.

2. Though the learned counsel for the Petitioner has sought to urge various grounds in respect of the merits of the adjudication of both suits one which is disposed of and one which is instituted by the parties and currently pending, it is not necessary to go into those details in view of the clear clarification given in the order under review. The learned Single Judge (R.K.Deshpande, J.) while disposing of the Civil Application No.1199 of 2010 and the Second Appeal No.432 of 1994 in terms of settlement, had clarified that nothing in the compromise or the order will bind the Petitioner and will be at liberty to adopt all such procedures as are permissible in law to agitate his grievance in respect of the suit property. The learned Single Judge has made it more than clear that even though the Second Appeals are disposed of by consent and settlement has been arrived at nothing in that order can be held to be binding against the Petitioner. It is therefore, clear that in case the Respondents proceed to take any steps against the Petitioner based on the compromise entered into as recorded in the order dated 30 June 2015 they will not be able to do so as the Petitioner was never a party in the decree which is obtained by way of compromise.

3. It is informed that Special Civil Suit No.323 of 2010 has been filed by the original Plaintiff, which is pending. Needless to state that the suit, in which the review Petitioner is a party, will be decided

on its own merits, irrespective of the order passed under review and the compromise. This being the position wherein the Petitioner is not affected by the order under the review, and the Review at the behest of the Petitioner need not be entertained and it is accordingly disposed of. In view of this position, I have not found it necessary to look into the other grievance of the Petitioner regarding the manner in which the Consent terms have been filed, which prima facie appear to have some substance.

4. Review Petition is disposed of with above clarification.

(N.M.Jamdar, J.)