

JPP

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

*REVIEW PETITION NO. 2 OF 2015
in
SECOND APPEAL NO. 30 OF 1991
with
CIVIL APPLICATION NO. 15 OF 2015*

Mr. Govind Mahadeo Nikam

(Since deceased through his legal heirs)

1. Sau. Bayabai Govind Sawant & Ors. ... Petitioners/Appellants.

V/s.

Mr. Bhiwa Balu Nikam and Ors. ... Respondents.

Ms. Preeti Walimbe for the Petitioners in Review Petition and for the Appellants in SA 30/91 and for the Applicants in CAO 15/15.

Mr. Pramod Kathane a/w. Arusha Kale for Respondent 1.

Coram : N.M. Jamdar, J.

Date : 27 March 2017.

Oral Order :-

Heard the learned Counsel for the Review Petitioners. By order dated 29 September 2014, passed by the learned Single Judge (A.B. Chaudhari, J.), the Second Appeal filed by the Appellants was dismissed. The Review Petition is taken out for review of the said order.

2. The learned Counsel for the Review Petitioners submitted that a question of law has arisen as regards the jurisdiction of the Civil Court in view of the dispute raised by the Review Petitioner as to whether tenancy of the suit property is a joint family or in the name of Shree Devi Bhawani Pratapgadh Trust. It was submitted that this question has been squarely raised by the Review Petitioner in the written statement and this aspect of jurisdiction has not been considered in the order under review.

3. The learned Single Judge, having gone through the written statement, found that the only averments in this regard is found in paragraph 10. The learned Single Judge found that the pleadings of the Review Petitioner in this paragraph of the written statement are vague and inadequate.

4. It is settled position of law that reference to tenancy Court cannot be mechanically made. The Court must be satisfied that from the pleadings of the parties the issue really arises for consideration. On consideration of the written statement the Court has found that the pleadings are sketchy and not adequate to make a reference to the tenancy Court. There is absolutely no case made out for exercise of review jurisdiction. It is, therefore, not possible to review the order on the ground stated by the learned Counsel for the Review Petitioner. The Review Petition is accordingly rejected.

(N.M. Jamdar, J.)