

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

CIVIL REVISION APPLICATION NO. 675 OF 2016

Mr. Jaspal Singh Kohli ..Applicant.

Vs

Arvinder Pal Singh Ahuja and .. Respondents
Ors.

Mr.G.S.Godbole, Senior Advocate, with Mr.Vikram Chavan,
Advocate for Applicant.

Mr. Mayur Khandeparkar i/b M/s Thakore Jariwala & Associates,
Advocates for Respondent no.1.

Mr. E.K.Sashidharan, Advocate for Respondent no.2.

**CORAM : R.G.KETKAR,J.
DATE : 06/02/2017**

PC:

1. Heard Mr.G.S.Godbole, learned senior counsel for the applicant, Mr. Mayur Khandeparkar, learned counsel for respondent no.1 and Mr. E.K.Sashidharan, learned counsel for respondent no.2 at length.

2. By this Application under Section 115 of the Code of Civil Procedure, 1908 (for short, 'C.P.C'), the applicant, hereinafter referred to as 'defendant no.2(a)' has challenged the Judgment and order dated 8.9.2016 passed by the learned Judge, City Civil Court, Dindoshi, Mumbai in Notice of Motion No.1441 of 2016 in S.C.Suit No.5485 of 1990. By that order, the learned trial Judge rejected the Motion taken out by defendant no.2(a) for recalling order dated 3.9.2013 in Chamber Summons No. 786 of 2013. By

order dated 3.9.2013, the learned trial Judge allowed the Chamber Summons No.786 of 2013 taken out by the plaintiff and permitted the plaintiff to bring legal representatives of defendant no.2 on record.

3. Mr.Godbole seeks permission to withdraw this Civil Revision Application with liberty to file Review Petition seeking review of order dated 8.9.2016. He assures that within one week from today, Review Petition will be filed and copy thereof will be served on Advocate for the plaintiff. He submitted that if within one week from today Review Petition is filed, the learned trial Judge may be directed not to dismiss the petition on the ground of limitation.

4. Mr. Godbole further submits that in case the Review Petition is decided against the applicant, liberty may be reserved to challenge the impugned order. On the other hand, Mr. Khandeparkar submits that all contentions of the respondent no.1-plaintiff may be kept open.

5. In view thereof, on the Motion made by Mr.Godbole, Application is allowed to be withdrawn with liberty as prayed for.

6. The applicant shall file Review Petition within one week from today and serve copy in advance on the other side during this period. If Review Petition is filed within one week from today, the learned trial Judge shall not dismiss the petition on the ground of limitation. All contentions of respondent no.1-plaintiff

are expressly kept open.

7. In case the Review Petition is decided against the applicant, liberty is reserved to challenge order dated 8.9.2016 passed in Notice of Motion No.1441 of 2016. Order accordingly.

(R.G.KETKAR, J.)