

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

REVIEW PETITION (ST) NO. 30386 OF 2017
IN
WRIT PETITION NO. 9913 OF 2017

Shri Abdul Razzak Sunesra .. Petitioner
Vs.
Anil Vijay Madgaonkar .. Respondent

...

Mr. Abhijeet Joshi a/w Mr. Kevin Pereira a/w Mr. Chinmaya Acharya
i/b Mr. Sushmit Phatale for Petitioner.
Mr. Surel Shah for Respondent.

***CORAM : M.S. SANKLECHA, J.
DATE : 14th NOVEMBER, 2017.***

P.C. :

1. This petition seeks a review of order dated 14th September, 2017. This on the ground that the impugned order dated 14th September, 2017, was passed refusing to entertain the petition because of the statement made on behalf of the respondent that the construction work on the suit property, was almost completed.

2. It is submitted by Mr. Joshi in support of the petition that, the above statement is incorrect. In support, he invites my attention to certain photographs which are annexed to the review petition. These photographs, according to him, would indicate that construction work is still going on. Therefore, the order dated 14th September, 2017 needs to be recalled.

3. The statement made by Mr. Surel Shah, learned counsel for the respondent was that the construction work was almost completed. However, this court directed in para 7 of the order dated 14th September, 2017 that “to adjust equities, it is made clear that any construction put up by the Respondents on the suit property, would be subject to the result of the suit. It is made clear that Respondent will not claim any equities on account of the construction work carried out on the suit property”. Thus, the order as passed also proceeded on the basis that the construction work was not completed and work was still to be done.

4. In any view of the matter, this application for review does not arise out of discovery of new evidence not available at the time when the order was passed nor does it contains any errors apparent on record. Thus, no case has been made out for review of the order dated 14th September, 2017.

5. Accordingly, review petition is dismissed. No order as to costs.

(M. S. SANKLECHA, J.)