

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
REVIEW PETITION NO.1 OF 2017
IN
CIVIL REVISION APPLICATION NO.496 OF 2016

Deepak Nana Jadhav ... Petitioner
Vs.
Govind Ambadas Roy and others ... Respondents

Mr. P. N. Joshi for Petitioner.
Mr. Rahul D. Motkari for Respondent No.1.

CORAM : R. G. KETKAR, J.
DATE : JULY 06, 2017

P.C. :

Heard Mr. Joshi, learned Counsel for petitioner and Mr. Motkari, learned Counsel for respondent No.1 at length.

2. By this Petition under Section 114 read with Order XLVII of the Code of Civil Procedure, 1908, petitioner / original defendant has sought review of the order dated 20.10.2016 passed by this Court in Civil Revision Application No.496 of 2017. By that order, Civil Revision Application preferred by the defendant No.1B challenging the judgment and decree dated 23.01.2007 passed by the learned Joint Civil Judge, Junior Division, Nashik in Regular Civil Suit No.918 of 1993 as also the judgment and decree dated 17.03.2016 passed by the learned Principal District Judge, Nashik in Regular Civil Appeal No.105 of 2007, was dismissed. The learned trial Judge decreed the Suit under Sections 12, 13(1)(g) and 13(1)(k) of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (for short 'Act'). As against this, the learned District Judge decreed the Suit only under Sections 12 and 13(1)(k) of the Act.

3. In support of this Petition, Mr. Joshi has taken me through the

discussion as far as ground of default under Section 12 is concerned as also documents at exhibit-1 collectively (pages 10 to 44) and submitted that the Courts below as also this Court committed error in decreeing the Suit on the ground of default under Section 12.

4. It is not possible to accept this submission. As noted earlier, the Suit was decreed by the learned trial Judge under Sections 12, 13(1)(g) and 13(1)(k) of the Act. The learned District Judge decreed the Suit under Sections 12 and 13(1)(k) of the Act. In view of discussion in respect of ground of non-user under Section 13(1)(k) in paragraphs 9 to 12, I do not find any case is made out for reviewing the order dated 20.10.2016.

5. In the case of ***Kamlesh Verma Vs. Mayawati***, AIR 2013 SC 3301, the Apex Court has considered the scope of review and has observed thus,

“The jurisdiction and scope of review is not that of an appeal and it can be entertained only if there is an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning can hardly be said to be an error apparent on the face of the record justifying the Court to exercise its power of review. A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error. Error contemplated under the rule must be such which is apparent on the face of the record and not an error which has to be fished out and searched. It must be an error of inadvertence. The power of review can be exercised for correction of a mistake but not to substitute a view. The mere possibility of two views on the subject is not a ground for review. Review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order XLVII, Rule 1 of C.P.C. ”

6. Applying the tests laid down by the Apex Court to the facts of the present case, no case is made out. Hence, Review Petition fails and the same is dismissed.

(R. G. KETKAR, J.)