

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

**REVIEW PETITION {L} NO.37 OF 2016
IN
WRIT PETITION NO.1468 OF 2009**

Pesi Shavak Patel

.... Petitioner
(Ori. Respondent-7c)

Vs.

Adi Dara Patel & Others

.... Respondents

Mr. Ranjit Thorat, Senior Counsel with Mr. Girish
Utangale i/by M/s. Utangale & Co. for the Petitioner.

CORAM: S.C. DHARMADHIKARI &
B.P. COLABAWALLA, JJ.

DATE : OCTOBER 06, 2017

P.C:

1. We have heard Mr. Thorat, learned Senior Counsel appearing on behalf of the review petitioner.

2. It is urged that this Court while passing the Judgment under review did not notice the fact that once the property was *custodia legis*, namely, in the possession of the Court Receiver appointed by this Court, then, there was no question of the Government taking it over by displacing the Court Receiver. Such an argument has not been canvassed and,

therefore, the Judgment under review should be set aside.

3. From a perusal of the Judgment under review it is apparent that the original petitioners who were supported by the present review petitioner/original respondent argued this very point and it has been dealt with in the Judgment under review. In fact, the Court's attention was invited to the very principle which enables the Court Receiver to step in and pending a litigation. The argument which is canvassed today has been specifically noted in paragraphs 48 and 49 and thereafter dealt with. That argument was also replied by the State. In the circumstances, we do not think that we should allow Mr. Thorat to canvass something which has already been argued and dealt with. The review petition is entirely misconceived. It is dismissed.

(B.P. COLABAWALLA, J.)

(S.C. DHARMADHIKARI, J.)