

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

MISC. CIVIL APPLICATION (REVIEW) NO.1096 OF 2017
IN
SECOND APPEAL NO.387 OF 2013 (D)

Pravin Bhaskarrao Borkute
-vs-
Kavita wd/o Nagesh Ambhore

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri R. M. Sharma, Advocate for applicant.
Shri Masood Shareef, Advocate for respondent.

CORAM : A.S.CHANDURKAR, J.

DATE : September 22, 2017

Perused the application as well as the reply filed thereto. Also heard the respective counsel on the said application.

I find that the grounds raised for seeking review of the judgment dated 24/08/2017 touch the merits of the adjudication. The errors said to have been committed are those which can be corrected in exercise of appellate jurisdiction. Hence I am not inclined to exercise review jurisdiction.

It is however submitted that when First Appeal No.861/2009 was pending in this Court which appeal

was filed under Section 96 of the Code of Civil Procedure, 1908, the execution of the decree passed by the trial Court was stayed on the condition that the appellant herein would deposit an amount of Rs.5 lakhs. The respondent was permitted to withdraw said amount by furnishing an undertaking. This deposit was subject to final orders in the said appeal. It appears that when the appeal under Section 96 of the Code was decided, this position was not brought to the notice of the first appellate Court. The applicant is at liberty to take such steps as are permissible in law to adjudicate his prayer for refund of the aforesaid amount.

M.C.A. is disposed of.

The interim protection granted on 24/08/2017 is extended till 20/10/2017 by way of last chance.

JUDGE