

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION (CIVIL) NO. 16 OF 2018
IN
WRIT PETITION NO. 3174 OF 2005

Chabubai Bhausahab @ Nathuram Warule
and others .. Applicants

versus

Kamlakar s/o Ganpat Kote and others .. Respondents

Mr. Pramod C. Mayure, Advocate for applicants
Mr. S. G. Ghayal, Asstt.Govt.Pleader for respondents no.3 to 7

CORAM : SUNIL P. DESHMUKH AND
SANGITRAO S. PATIL, JJ

DATE : 18th January, 2018

ORDER:

1. Heard learned counsel for the applicants Mr. P. C. Mayure. He submits that review applicants are lessees of respondent no.6 and 7 in writ petition no. 3174 of 2005 and that they entered into possession of the property under agreements of lease with respondents no. 6 and 7.

2. Perusal of the application reveals that the review of the order in writ petition has not been sought on any of the grounds as would be available for a review of a decision in writ petition it being deficient on any count. The review has

been sought only on the ground that the applicants are occupants of impugned construction.

3. In 2010, the applicants had approached civil court at Kopergaon under proceedings bearing regular civil suits no. 206 of 2010, 207 of 2010, 208 of 2010 and 209 of 2010 seeking injunction against respondents, particularly the Collector, Tahsildar and Chief Officer, Shirdi Municipal Council not to disturb and obstruct applicants' peaceful possession and enjoyment of shops in building construction, which is ordered to be demolished by judgment and order in writ petition dated 20-12-2017. Said suits were dismissed on 18-09-2014 for want of cause of action.

4. Averments in the review application do disclose that reference to pendency of writ petition before the high court had indeed been made by defendants in civil suits referred to above.

5. It is thus discernible that it cannot be said that the applicants were unaware of pendency of writ petition before this high court with regard to legitimacy and legality of impugned construction wherein they claim to be occupants.

6. In the circumstances, review at the instance of applicants is hardly tenable and is not being considered.

7. Learned counsel Mr. Mayure on behalf of the applicants at this juncture requests that alternate reliefs sought in terms of prayer clauses (B-1) and (C) could be considered. It is for the applicant to take up their cause with concerned authorities or may resort to any other remedy as may be available in law.

8. Review application as such, is rejected.

SANGITRAO S. PATIL,
JUDGE

SUNIL P. DESHMUKH
JUDGE

pnd/-