

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
29 REVIEW APPLICATION (CIVIL) NO. 39 OF 2018
IN FA/326/2017

LAXMAN BABURAO AVALE AND OTHERS
VERSUS
SURENDRA BRIJMOHAN AGARWAL AND OTHERS

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Advocate for Applicants : Mr. Patil N.P. Jamalpurkar
Advocate for Respondent No. 1 : Mr. V.D. Salunke.
Advocate for Respondent No. 3 : Mr. B.A. Shinde.
Advocate for Respondent No. 4 : Mr. S.S. Thombre.

CORAM : K. L. WADANE, J.

DATE : 02nd May, 2018

ORDER:

1. The applicants have challenged the order passed by this Court in First Appeal No. 326/2017 dated 08.09.2017 by which the First Appeal of the present applicants is dismissed, hence this review application.

2. Heard Mr. Patil, learned counsel for applicants and Mr. V.D. Salunke and Mr. S.S. Thombre, learned counsel for respective respondents.

3. During the course of arguments Mr. Patil has concentrated his arguments on the fact that while deciding the Appeal before the learned District Judge, he has unnecessarily gone into the disputed facts of the case and pointed out the contents of para No. 29 to 35 of the judgment of the learned District Judge. By

referring the observations of learned District Judge, Mr. Patil, learned counsel for applicants has pointed out that the learned District Judge has exceeded his jurisdiction to hold that the enrollment of the present applicants is improper and the learned Assistant Charity Commissioner has no jurisdiction to deal with the question of enrollment in the enquiry under section 24 of the Maharashtra Public Trusts Act.

4. Mr. Thombre, learned counsel appearing for respondent No. 4 argued that there is no apparent mistake on the part of this Court. Therefore, there is no substance in the review application. Mr. Thombre, learned counsel, further points out that the contents of the review application are as good as appeal-memo and all the grounds which are to be taken in the appeal have been taken in the review application, which is not permissible.

5. I have gone through the order passed by this Court and the provisions of Order 47 Rule 1 together with amended provisions of the Code of Civil Procedure. On perusal of the same it appears that scope of review is very limited. Review of the judgment may be allowed on three grounds; (i) discovery of a new and important

matter of evidence which after the exercise of due diligence, was not within the knowledge of the applicant or could not produce by him at the time when the decree/order was passed, (ii) some mistake or error apparent on the face of record or (iii) for any other sufficient reason (which has been interpreted to be analogous to the other reasons specified above). The review petition is permissible only on the aforesaid three grounds. No error apparent on the face of record is pointed by the learned counsel for the applicants.

6. In view of the above and considering the scope of the review application, I am of the opinion that there is no substance in the review application, therefore, it is liable to be dismissed.

7. Review application is dismissed. No costs.

(K. L. WADANE, J.)

mkd