

IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION (REVIEW) NO. 3 OF 2018

IN

WRIT PETITION NO. 64 OF 2014

GURUDAS NARAYAN SALGAONKAR (DEC)
THROUGH LEGAL REPRESENTATIVES., ... Applicant

Versus

AVDUTA SAVLARAM ARAS., ... Respondent

Applicant No.1 in person.
Shri M. B. D'Costa, Senior Advocate with Ms. K. Betquekar,
Advocate for the Respondent.

Coram:- NUTAN D. SARDESSAI, J.

Date:- 21st March 2018

ORAL ORDER

The applicant no.2 seeks a review of the Judgment passed by this Court dated 01.02.2018 on the grounds urged in the application. No separate reply has been filed on behalf of the respondent. Nonetheless, the applicant came to be heard in person who sought the recall of the judgment under review and adverted to the judgment in *May George vs. Special Tahsildar & Ors.* [2010 (13) SCC 98] which referred to section 34 of the Rent Act and submitted that the interpretation of the word 'shall' had to be construed as mandatory which had not been done in the judgment under review. It was also his contention that no oral hearing was given to him before the Administrative Tribunal

and/or the Appellate Board and in that respect relied upon the Judgment in Gullapalli Nageswara Rao & Ors vs. Andhra Pradesh State road Transport Corporation & anr. [1959 AIR 308] and submitted that his review application be allowed.

2. Shri M. B. D' Costa, learned Senior Advocate appearing for the respondent placed reliance in M/s. Northern India Caterers (India) vs. L. T. Governor of Delhi [(1980) 2 SCC 167].

3. i have considered the submissions of the applicant no.2 in person, the submissions of Shri M. B. D'Costa, learned Senior Advocate and the judgments relied upon by the applicant no.2 in person and the learned Senior Advocate for the respondent and last but not the least, perused the judgment under review. At the outset and without getting into the details of the contentions raised by the applicant no.2 in person, a detailed reference was made to the judgments relied upon on behalf of the applicants who were duly represented by a learned Senior Advocate and, on an interpretation of section 34 of the Act it was held at paragraph 27 that it was not a fit case to exercise the powers of superintendence and accordingly the petition was dismissed as found lacking in merits. Therefore, under the garb of review, the applicant is now seeking to reopen the issue of interpretation of section 34 of the Act which is not permissible looking to the predicates of Order XLVII Rule 1 of the Civil Procedure Code.

Besides, the judgment in May George was also duly considered while dealing with the petition.

4. A reference to the judgment in Gullapalli (*supra*) where an observation was made that hearing by one party and a decision by another becomes an empty formality will also not apply in the facts under consideration. Last but not the least in M/s. Northern India Caterers (*supra*), the Hon'ble Apex Court had held that in a civil proceeding, an application for review is entertained only on a ground mentioned in Order XLVII Rule 1 of the Civil Procedure Code. Whatever be the nature of the proceedings it is beyond dispute that a review proceeding cannot be equated with the original hearing of the case and the finality of the judgment delivered by the Court will not be reconsidered except "where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility". Besides it was held in the same judgment at para 14 that a plea for review unless the first judicial view is manifestly distorted, is like asking for the moon. A forensic defeat cannot be avenged by an invitation to have a second look, hopeful of discovery of flaws and reversal of result.

5. The present application is an attempt by the applicant to seek a reconsideration of the matter which was dealt with at large on its merits and decided properly. There is no scope whatsoever for

the review of the judgment and in view thereof the application does not survive and is hereby dismissed.

NUTAN D. SARDESSAI, J.

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