

Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
REVIEW PETITION ST NO. 2226 OF 2018
IN
CIVIL REVISION APPLICATION NO. 611 OF 2016
WITH
CIVIL APPLICATION NO. 39 OF 2018

Balwinder Singh Harbans Singh Sandhu ...Petitioner
Versus
Krishnarao Laxman Mungi & Ors ...Respondents

REVIEW PETITION ST NO. 2232 OF 2018
IN
CIVIL REVISION APPLICATION NO. 612 OF 2016
WITH
CIVIL APPLICATION NO. 40 OF 2018

Shaikh Mainuddin Azmi ...Petitioner
Versus
Krishnarao Laxman Mungi & Ors ...Respondents

Mr Aseem Naphade, i/b Prashant P More, for the Petitioner in both
the matters.

CORAM: G.S. PATEL, J
DATED: 26th March 2018

PC:-

1. Heard.

2. There is absolutely no substance in the Review Petition which seeks a review of my order dated 27th November 2017 by which I disposed of the two Civil Revision Applications with accompanying Civil Applications.

3. It is now argued on behalf of the Applicants/original Defendants to the eviction action that the entire eviction action was time-barred because it was not brought within 12 years of a sub-tenancy being created. All of this has never been argued. Even on the basis of a submission on Section 3 of the Limitation Act, viz., that a limitation bar must be considered irrespective of whether it is taken or not, this is not a submission that can be sustained, for it lacks factual foundation, and limitation is always a mixed question of fact and law. The simple reason is that these Defendants have taken whatever defence strikes their fancy at different times. They claimed to be licensees. That did not work. Then they claimed to be sub-tenants. That did not work either. They then claimed to be neither, and challenged as fraudulent and fabricated the original demise of the land to one Kaikhushroo Dinshaw Modi, the very person who they at one point in time said was their licensor, and later said was their head tenant, and now, since they were challenging the demise in his favour, had no title at all.

4. All these conflicting stands are specifically noted in my order of 27th November 2017. It is not possible to allow these Applicants/Petitioners to constantly reopen and re-agitate the same issues again

and again, let alone to take shifting stands by saying that this is an error apparent on the face of record or a material irregularity. It is neither.

5. The Review Petitions are dismissed. No costs.

6. The Civil Applications do not survive and are disposed of as infructuous.

(G. S. PATEL, J)