

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**REVIEW PETITION ST. NO.18511 OF 2018
IN
SECOND APPEAL NO. 1055 OF 2012**

Vana Ramchandra Patil

...Petitioner

Versus

Hirabai Rajendra Deshmukh and Anr.

...Respondents

.....

Mr.C.J.Joveson for the Petitioner.

Ms.Gauri Godse a/w. Mr.Rohit Joshi for the Respondents.

**CORAM: MRS.MRIDULA BHATKAR, J.
DATED: NOVEMBER 24, 2018**

P.C.:

1. The petitioner is present in Court.
2. Delay application is not filed. Oral request is made for condonation of delay of 27 days.
3. The learned counsel for the respondents submits to the order of this Court.
4. Hence, delay of 27 days is hereby condoned.
5. The learned counsel for the petitioner submits that in view of Section 109 of the Code of Civil Procedure as the challenge is on the fact, SLP before the Supreme Court is not permissible. Therefore, this Review Petition is moved mainly on the ground that the fact and evidence, which was before the trial Court was not properly put up

before this Court. He further submits that the issue whether the family is HUF or not was not framed specifically by the trial Court. This fact was not pointed out by this Court. Similarly, the evidence of the defendants is not properly assessed.

6. The learned counsel for the respondents opposes this Review Petition on the ground that this particular aspect so also the evidence was discussed by the Court while passing impugned order. She submits that though it was a Second Appeal, the Court has also gone into the oral and documentary evidence and passed the order.

7. Considered submissions. It appears that the evidence and facts were very much within the knowledge of the petitioner and, therefore, there is no need to consider this Review Petition and these facts and evidence again in this Review Petition. This Petition is beyond the scope of Order 47 Rule 1 of the Code of Civil Procedure hence, dismissed.

(MRIDULA BHATKAR, J.)