

Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
REVIEW PETITION (ST) NO. 23636 OF 2016
IN
SECOND APPEAL NO. 245 OF 2015
WITH
CIVIL APPLICATION NO. 5 OF 2018
IN
REVIEW PETITION (ST) NO. 23636 OF 2016

Sujata Vilas Nandgude

...Petitioner

Versus

Nitin Madhukar Bhosale & Ors

...Respondents

Mr. Shriram S. Kulkarni, for the Petitioner.

Ms. Gauri Godse, for Respondents Nos.1, 2A to 2C, 4 & 6.

Mr. P. M. Jadhav, for Respondent No.7.

CORAM: N. M. JAMDAR, J

DATED: 2 FEBRUARY, 2018

Oral Order:-

1. The review is sought of the judgment and order passed in Second Appeal No.245 of 2015 dated 13 July, 2016. By this order, after a full-fledged hearing, the Second Appeal was dismissed. The Appellant in the Second Appeal had challenged concurrent judgements and orders passed by the Civil Judge and the District Judge.

2. As the order under Review shows, only two contentions were advanced by the Appellant. Firstly, that the Suit was barred under the provisions of Order 2 Rule 2 of Code of Civil Procedure. Secondly, that partition deed was wrongfully described by both the Courts. After considering the arguments, both points were answered in negative and concurrent judgments and decrees, were confirmed.

3. Thereafter, the review is filed, not by the same Advocate, but through a different Advocate.

4. The learned Counsel for the Petitioner submitted that, it was not noticed that the Respondents, in their own pleadings, had stated that the properties are an ancestral property being a *Inam* land and there is an admission to that effect in the cross-examination. The learned Counsel for the Respondents, on the other hand, submitted that the Review Petitioners themselves have treated the property as self-acquired and entire proceedings were conducted on the basis that the properties was self-acquired.

5. In this Review petition, a new point is sought to be urged for the first time which was never taken at the time of hearing. This is an factual aspect. If it is not argued, it has to be taken as not pressed. It is not possible to entertain review petition of this nature. Through the change of Advocate an attempt is made to

re-argue the matter. In view of the heavy pendency of cases, this Court is already hard pressed for time to give hearing to the parties even at the first instance. If such re-hearing are resorted to, the Court will have no time left to attend to more pressing causes. The Petitioner has an adequate remedy, if the Petitioner is aggrieved by the order under review.

6. The Review Petition is accordingly rejected.

7. In view of disposal of the Review Petition, Civil Application No.5 of 2018 does not survive and is accordingly disposed of.

[N. M. JAMDAR, J.]