

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

**REVIEW PETITION NO. 05 OF 2018
WITH
SECOND APPEAL (ST.) NO. 13813 OF 2018**

M/s.Sea Princess Realty	...	Petitioner
V/s.		
Bhupendra Ramji Vira & Ors.	...	Respondents

**ALONG WITH
REVIEW PETITION (ST.) NO. 20198 OF 2018
WITH
SECOND APPEAL (ST.) NO. 13781 OF 2018**

M/s.Sea Princess Realty	...	Petitioner
V/s.		
Rajesh Mehta and Anr.	...	Respondents

- Mr.Nilesh Gala a/w. Mr.Avadhut P. Bidaye, for the Petitioner(s).
- Mr.Mustafa Safiyuddin i/b. ABH Law LLP, for the Respondents.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 31st OCTOBER, 2018.

P.C. :

1] Heard learned counsel for the Petitioner(s) and learned counsel for the Respondents.

2] These two Petitions are preferred by the Petitioner(s) to review the 'Common Judgment and Order' passed by this Court on 7th

June, 2018. The Review is sought on the two grounds.

3] **As regards first ground** : It is submitted that, the impugned order(s) against which these Appeals were preferred was passed by the Chairperson, Maharashtra Real Estate Regulatory Authority (*for short, "RERA"*). Hence, it was a nullity for want of jurisdiction, in view of Section 71 of the RERA Act, as he was not a judicial member and has no power to exercise the judicial function.

4] However, as this ground has not been taken up when the Appeal(s) were heard finally, on such new ground, the Review cannot be permitted.

5] **As regards second ground** : It is submitted that, this Court has held that the Second Appeal(s) do not involve any substantial question of law and no case is made out for admission. It is submitted that, the acceptance of additional evidence tendered at the appellate stage is a question of law, whereas this Court has considered it as question of fact. Therefore, it is submitted that, in view of the judgments passed by the Hon'ble Supreme Court in the case of *Namdeo Bapurao Bansod Vs. Tukaram Marotrao Jadhav*¹ and *Union of India Vs. Sube Ram & Others*², it constitutes a ground for review of the

1 Civil Appeal No. 5185 of 2008 [Arising out of SLP(C) No.14423/2007], Dated 18th August, 2008.

2 (1997) 9 SCC 69.

judgment and order.

6] However, this Court is not convinced about the same. This Court has already dismissed the Appeal holding that, it does not involve any substantial question of law and no grounds are made out to take any other view of the matter.

7] In view of the above, both these Review Petition(s) being without merit, stand dismissed.

[DR.SHALINI PHANSALKAR-JOSHI, J.]