

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

REVIEW PETITION (ST) NO. 34269 OF 2017
 IN
 SECOND APPEAL 759 OF 2015

...
 Sau.indubai Motiram KolhePetitioner
 V/S
 Shri.sitaram Nathu Katad & Ors.Respondents

...
 Mr.R.M.Haridas i/b Mr.Pratik Balasaheb Rahade for the Review Petitioner.
 Mr.Milind M.Sathaye for Appellant in Second Appeal.
 Mr.Pradeep J. Thorat a/w Mr.Nishant Mohite for Respondents Nos.
 1/1,1/2,2/1 to 2/3, 2/6, 3 and 6 2/4 for Respondents.

...
CORAM : A.A. SAYED,J.

DATED : 2 APRIL 2018

P.C.:

Heard the learned Counsel for the Review Petitioner, the learned Counsel for the original Appellant in Second Appeal and the Counsel for the Respondents Nos.1/1, 1/2, 2/1 to 2/3, 2/6, 3 and 6.

2. The order impugned in the Review Petition is the order dated 9-11-2017 passed in Second Appeal No.759 of 2015, which reads as follows:

“Learned Counsel for the Respondents Nos.1 to 7 states that he has already taken no objection from the previous Advocate and he will file his vakalatnama within a week from today. The statement is accepted.

2. Learned Counsel for the Appellant and the learned Counsel for the Respondents Nos. 1 to 7 state that the dispute between the parties is

amicably settled. They have tendered Consent Terms. The same is taken on record and marked "X" for identification.

3. So far as Respondents Nos.8 and 9 are concerned, as stated by the learned Counsel for the parties their rights are not in any way affected and the same is also stated in the Consent Terms in paragraph (9).

4. The Second Appeal to stand disposed of in terms of the Consent Terms. The Civil Application does not survive and also stands disposed of.

3. The contention of the Review Petitioner that the Power of Attorney holder had executed the Consent Terms without the consent of the Review Petitioner would not be a ground to review the order dated 9-11-2017. It is not disputed that the Power of Attorney holder had the authority to sign the Consent Terms.

4. In the facts and circumstances of the case, I do not find any error apparent in the impugned order dated 9-11-2017. Even otherwise, no case is made out to review the order dated 9-11-2017.

5. For the sake of completion, it is recorded that Mr.R.M.Haridas, learned Counsel for the Review Petitioner has relied upon the judgment of the Supreme Court in the case of **R.Rajanna v/s. S.R.Venkataswamy and**

ors., (2014) 15 SCC 471 to contend that it is this Court alone which can examine the legality and validity of the Consent Terms and a separate suit to challenge the validity of the Consent Terms would not be maintainable. Learned Counsel Mr.Thorat, on the other hand, has relied upon the judgment of the Supreme Court in case of **Shanti Budhiya Vesta Patel and ors. v/s. Nirmala Jayprakash Tiwari and ors.**, (2010) 5 SCC 104 to contend that the Review Petitioner is estopped from questioning the Consent Terms as the Power of Attorney holder had acted within the scope of his authority.

6. The Review Petition shall accordingly stand dismissed. No order as to costs.

(A.A.SAYED, J.)