

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
REVIEW PETITION (LODGING) NO. 8 OF 2018
IN
APPEAL NO. 219 OF 2016
IN
NOTICE OF MOTION NO. 1060 OF 2012
IN
SUIT NO. 1423 OF 2011**

Ramprakash Balkishan Chandak	...Petitioner
Versus	
Shyam Balkishan Chandak & Ors.	...Respondents

Mr. A. P. Wachasundar for the Petitioner

Mr. Piyush M. Shah for the Respondent No. 1

***CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.
TUESDAY, 31st JULY, 2018***

P.C. :

1 By a separate order passed today in Notice of Motion (Lodging) No. 317 of 2018, the delay in filing the above Review Petition has been condoned.

2 By the consent of the learned counsel for the parties, we have taken up the Review Petition for hearing.

3 By the above Review Petition, review is sought of the order dated dated 24th February 2016 passed by a Division Bench of this Court (V. M. Kanade (as His Lordship then was) and Revati Mohite Dere, JJ.). By the said order, the Appeal filed by the Petitioner herein came to be dismissed. Whilst dismissing the Appeal, the Division Bench observed that the judgment in ***Quadricon Private Limited vs. Shri Bajrang Alloys Limited dated 17th March 2009 in Appeal No. 215 of 2008*** was not applicable to the facts of the present case. The Division Bench, therefore, upheld the leave granted under Clause XII of the Letters Patent to file the Suit in question, which Suit included properties, some of which, were outside the territorial jurisdiction of the Original Side of this Court.

3 The review is founded on the fact that the Judgment of the Apex Court in ***Sumer Builders Pvt. Ltd. vs. Narendra Gorani***¹ was not brought to the notice of the Division Bench at the time of hearing of the Appeal. The second ground on which the review is founded is based on the physical condition of the Petitioner.

1 2016 (2) SCC 582

4 Insofar as the first ground is concerned, in our view, just because a judgment which according to the Review Petitioner covers the issue has been found after the order, of which review is sought, came to be passed, the same cannot be a ground for review. Insofar as the physical condition of the Petitioner is concerned, though we empathize with the Petitioner, the same also cannot be a ground for review. The aforesaid grounds, therefore, do not fall within the parameters which have been laid down in Order XLVII of the Civil Procedure Code. The learned counsel appearing for the Petitioner has not been able to demonstrate or point out any ground, which can be said to fall within the ambit of Order XLVII of the Civil Procedure Code.

5 In our view, therefore, no case for review is made out. The Review Petition is accordingly dismissed.

REVATI MOHITE DERE, J.

R. M. SAVANT, J.