

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

REVIEW PETITION NO.9 OF 2018

IN

SUIT NO.1450 OF 1999

Mahendrakumar C. Sanghvi and Ors.Petitioners/Original plaintiffs

Vs.

M/s. S.P. Builders and Ors.Respondents/Org. Defendants

Ms. Deepti Panda a/w. Mr. Ganesh Ambekar i/b. M/s. Thakore Jariwala and Associates for petitioners.

None for respondents.

CORAM : K.R.SHRIRAM, J.

DATE : 13th JUNE, 2018

P.C.:

1 This review petition is filed because in the order dated 8th September 2017, the Court observed “*As no party has led evidence in the matter; the suit stands dismissed*”.

2 Ms. Panda, who had appeared on 8th September 2017, states that due to want of instructions she could not bring to the notice of the Court that plaintiffs had filed evidence of one witness, who was also cross examined by defendants before the Court appointed Commissioner on six dates but after 18th January 2016, when plaintiffs' first witness was cross examined and the cross examination remained inconclusive, plaintiffs' first witness met with an accident and went into Coma. Ms. Panda further states that atleast to the extent the witness has been cross examined, the Court can look into the evidence. Ms. Panda states that in view thereof, the order

dated 8th September 2017 dismissing the suit by recording that “*no party has led evidence*” has to be recalled because factually it was not the correct position. Ms. Panda tenders an affidavit of one Rupesh R. Jadhav affirmed on 18th April 2018 confirming service of the review petition upon respondents/defendants. The same is taken on record. None present for respondents/defendants though served.

3 Having heard Ms. Panda and having considered the affidavit in support, the review petition is allowed and accordingly disposed. Suit is restored to file.

4 Suit be listed for directions before the appropriate Court on 18th June 2018.

(K.R. SHRIRAM, J.)