

13.9.2019

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 116 OF 2019
IN
REVIEW PETITION (ST.) NO. 7736 OF 2019
IN
SECOND APPEAL NO. 625 OF 2018

Uttam Daji Shete	...Applicant
v/s.	
Vasant Krishna Kumbhar	Respondent

* * * *

Mr. Sanjay D. Thokade, Advocate for the applicant.

Mr. Sachin Padaye i/by. Mr. G.R. Agarwal, Advocae
for the respondent.

CORAM : SANDEEP K. SHINDE, J.

Friday, 13th September, 2019.

P.C. :

1. Heard respective Counsel.
2. Petitioner-appellant in Second Appeal

13.9.2019

No. 625 of 2018 seeks review of the order dated 17th January, 2019 passed in the Second Appeal.

3. Mr. Thokade, learned Counsel for the review petitioner submits that Regular Civil Suit No. 163 of 2002 was not maintainable in view of the provisions of Order 2 Rule 3 Civil Procedure Code, in as much as, the respondent-original plaintiff had instituted the first suit being Regular Civil Suit No. 460 of 1994.

4. Mr. Thokade, further submits that, the impugned order does not deal with this contention.

5. This point was not raised while arguing the Second Appeal. Equally it was not raised before the first Appellate Court.

6. Even otherwise, it may be stated that the first suit was simplicitor for injunction and the second suit being Regular Civil Suit No. 27 of 2017 was instituted, seeking decree, for removal of encroachment. Decree of perpetual injunction

13.9.2019

passed in the first suit has attained finality. In view of these facts, I do not see any reason to interfere with the order dated 17th January, 2019 of which review is sought. The Civil Application is accordingly dismissed.

(SANDEEP K. SHINDE, J)