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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO.19 OF 2019
IN
WRIT PETITION NO.11251 OF 2016

Kavishanlal G. Agrawal & Anr.

...Review
...Petitioners

V/s.

The Competent Authority & Ors.

...Respondents

Mr.Anil Y. Sakhare, Senior Counsel with Mr.Shravan Jagtiani,
Mr.Chetan R.Shah I/b Mr.Anand Singh for the Review Petitioners.

Mr.R. Kadam, Government Pleader for the State.

Mr.Kiran Jain with Ms.Anita Kamble I/b Kiran Jain & Co. for the
Respondent No.2.

Mr.M.A. Adenwala for the Respondent No.4 (Original Petitioner).

CORAM : R.D. DHANUKA, J.
DATE : 11TH FEBRUARY, 2019.

P.C. :-

1. By this review petition, the review petitioners who are not the parties to the Writ Petition No.11251 of 2016 seek recall of the order dated 23rd July, 2018 passed in Writ Petition No.11251 of 2016 dismissing the said writ petition filed by the developers. The developers had impugned the order dated 12th August, 2015 passed by the Competent Authority allowing the application of the respondent no.2 society for deemed conveyance. By the said order,

this Court had made it clear that if any civil suit is filed for seeking adjudication of title in respect of the property in question by the developer, the same shall be decided independently. This Court had made it clear that the Competent Authority while deciding the application under section 11 of the MOFA does not decide the title while pursuing the application for deemed conveyance under section 11 of the MOFA.

2. Insofar as the review petitioners are concerned, they claimed certain rights through the developer. Mr.Sakhare, learned senior counsel for the review petitioners invited my attention to an order passed by this Court on 15th March, 2010 in Writ Petition No.1523 of 2009 and would submit that this Court has already admitted the writ petition filed by the review petitioners and has granted interim relief in that writ petition. He submits that rights of his clients are affected in view of the order passed by this Court on 23rd July, 2018 dismissing the writ petition filed by the developer. It is submitted that the notice of eviction issued by the Corporation has been stayed by this Court insofar as the review petitioners are concerned.

3. Admittedly these review petitioners were not the parties to the earlier writ petition in which this review petition is filed by the review petitioners. The said writ petition was arising out of the order

passed by the Competent Authority under section 11 of MOFA by which the application for deemed conveyance filed by the society was allowed. The present review petitioners alleging their rights through the developer whose writ petition is rejected by this Court.

4. Mr.Jain, learned counsel appearing for the respondent no.2 invited my attention to an order dated 14th September, 2018 passed by this Court in Review Petition (Stamp) No.25871 of 2018 filed by Prakash Vinayak Kamat & Ors., who also claimed to be the occupants of some of the structures in the buildings constructed on the land which were the subject matter of the Writ Petition No.11251 of 2016. By a detailed order dated 14th September, 2018 passed by this Court in an identical situation, this Court rejected the said review petition. It was made clear by this court in the said order dated 14th September, 2018 that insofar as the review petitioners were concerned, if any proceedings for enforcement of their alleged rights against the developer in respect of the property claimed by the review petitioners were filed, the said proceedings shall be decided entirely on its own merits without being influenced by any observations made by this Court in the order dated 23rd July, 2018.

5. In my view, no case is thus made out for recall of the order dated 23rd July, 2018 passed by this Court. The review petition is accordingly dismissed. It is made clear that this Court has not

expressed any views on the merits of the matter or entitlement of the review petitioners in the properties. All the rights and contentions of the parties are kept open.

(R.D. DHANUKA, J.)