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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION (STAMP) NO.28636 OF 2018
IN
CIVIL REVISION APPLICATION NO.548 OF 2018

Nisarg Maintenance Private Trust & Ors.

...Petitioners
Ori.Defendants

V/s.

Nisarg Pot Owners Co-op. Soc. Ltd.

...Respondent
...Ori. Plaintiff

Ms.Manjiri S. Parasnis for the Petitioners.

Mr.Nikhilesh Pote of the Respondent.

CORAM : R.D. DHANUKA, J.

DATE : 14TH JANUARY, 2019.

P.C. :-

1. By this review, the original applicants in the Civil Revision application (Stamp) No.17673 of 2018 seeks recall of the order dated 1st October, 2018.

2. By the Civil Revision Application (Stamp), the applicants had impugned the order dated 27th March, 2018 passed by the learned trial Judge rejecting the application below Exhibit – 22 filed under Order VII Rule 11 of the Code of Civil Procedure, 1908 alleging that there was no cause of action in filing the suit. This Court by an order dated 1st October, 2018 after considering the averments made in the plaint and also the fact that the applicants themselves have

admitted that the original plaintiff society was registered on 29th April, 2017 and the registration certificate was issued in favour of the plaintiff, dismissed the said civil revision application. This Court also considered that the learned trial Judge has rightly rendered a finding that cause of action had arisen in the suit.

3. Learned counsel appearing for the review petitioners invited my attention to paragraph 4 of the order dated 27th March, 2018 and would submit that though the learned trial Court could not have dismissed the suit under Order VII Rule 11 of the Code of Civil Procedure, 1908 in the application filed by her clients, the fact remains that the order granting registration in favour of the plaintiff society has been stayed by the Divisional Joint Registrar, learned trial Judge and the said proceedings are still pending. She submits that no prejudice would be caused to the original plaintiff if the Divisional Joint Registrar is directed to dispose of the said application granting stay of the registration granted to the original plaintiff.

4. Learned counsel appearing for the original plaintiff opposes this submission made by the learned counsel for the review petitioners on the ground that this Court after considering the averments made in the plaint, admissions made by the review petitioners that the order of registration was passed and after

considering the impugned order passed by the learned trial Judge, has rightly dismissed the civil revision application. He submits that no case is made out by the review petitioners for recall of the order passed by this Court. He submits that this Court thus need not issue any directions to the learned Divisional Joint Registrar for disposal of the said application filed by the review petitioners seeking to impugn the order of registration granted in favour of the original plaintiff.

5. A perusal of the order passed by this Court clearly indicates that in the said order after considering the averments made in the plaint the admission of the review petitioners that the original plaintiff was registered and the registration certificate was issued in favour of the original plaintiff, this Court has rejected the said civil revision application. No case is thus made out for recall of the order passed by this Court. There is no error apparent on the face of the order. This Court is not required to issue any directions to the learned Divisional Joint Registrar for disposal of the proceedings filed by the review petitioners. The review petition is misconceived and is accordingly dismissed. *Ad-interim* relief, if any, to stand vacated.

(R.D. DHANUKA, J.)