

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

MISCELLANEOUS CIVIL APPLICATION (REVIEW) NO.47 OF 2020

IN

SECOND APPEAL NO.178 OF 2019 (D)

Sunil S/o Vedmitra Bajaj and others.

Vs.

Renuka W/o Dnyaneshwar Ambadare and others.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Anand Parchure, Advocate for applicants.

CORAM : AVINASH G. GHAROTE, J.

DATE : FEBRUARY 11, 2020.

Heard Shri Parchure, learned counsel for the applicants.

By the present application, review of the judgment dated 10.04.2019, passed in Second Appeal No.178 of 2019, is being sought on the ground as mentioned in Paras 5 and 6 of the application contending that these grounds were not considered by this Court while passing the judgment sought to be reviewed. It is pertinent to note that, in the suit for specific performance, filed by the present review applicant, who was the original defendant, on the plaintiff not pressing the relief of specific performance, the alternative relief of refund of part consideration was granted by the Trial Court, which was affirmed by the Appellate Court. It is not in dispute, that the original defendant, has received an amount of Rs.14,55,000/- from the plaintiff under agreement dated 07.11.2007, which has been directed to be refunded with

interest @ 9 % per annum by the Trial Court.

Mr. Parchure, learned counsel for the applicants submits that the issue of forfeiture of the amount received by the defendant, was not considered by this Court while passing the judgment dated 10.04.2019.

A perusal of the judgment sought to be reviewed, clearly demonstrates, that in Para 3 itself the contention advanced on behalf of the appellant, that in view of the terms and conditions of the suit agreement, the claim of the defendant of forfeiture of the earnest amount, has been considered by this Court. There is thus no merits in this review application. The same is accordingly dismissed. No order as to costs.

JUDGE

Sarkate