

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

MISC. CIVIL APPLICATION (REVIEW) NO.1153 OF 2019

IN

SECOND APPEAL NO.223 OF 2018 (DISPOSED)

Sahadeo Sakharam Goswami

vs.

Mukunda Atmaram Goswami

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

Court's or Judge's orders

Shri. M. P. Khajanchi, counsel for applicant.
Shri. Nitin Vyawahare, counsel for sole respondent.

CORAM : MANISH PITALE J.

DATED : 13/03/2020

This is an application seeking review and recall of order dated 27/09/2019 passed by this Court, whereby Second Appeal No.223/2018 was disposed of. The said order reads as follows :-

“In the context of the specific statement that was made by the learned counsel appearing for the respondent before this Court, the learned counsel for the appellant has received written instructions from the appellant. Accordingly, a joint pursis dated 24/09/2019 has been filed by the learned counsel for the rival parties. By this pursis, the parties have agreed for disposal of the appeal, by modification of the decree passed by the Courts below in terms of the said pursis.

2. Accordingly, the appeal is disposed of in terms of the pursis dated 24/09/2019. The

parties are directed to abide by the undertaking given in the said pursis. The decree passed by the Courts below stands modified accordingly.

3. Needless to say, if the appellant fails to abide by the undertaking given in this Court for execution of the sale deed, the respondent would be entitled to get the sale deed executed through Court.

4. According to the terms of pursis, the respondent shall deposit the balance amount of Rs.30,000/- within fifteen days in this Court, which the appellant would be entitled to be withdrawn. The appeal stands disposed of in the above terms.”

2. As is evident from the above quoted order, second appeal was disposed of on joint pursis dated 24/09/2019, whereby learned counsel for the appellant agreed to modification of the decree in terms of details given by the respondent. In this review application a specific statement is made that such concession was given on behalf of the appellant without instructions. The joint pursis also indicates that it is signed only by the counsel and not by the parties.

3. In view of the statements made in the review application on oath by the review applicant/appellant, this Court is of the opinion that the order dated 27/09/2019, deserves to be reviewed and recalled.

4. In view of the above, the application is allowed. The order dated 27/09/2019 is hereby recalled. Consequently, the Second Appeal No.223/2018 be listed before the concerned Court after **two weeks** for consideration on merits.

JUDGE

KOLHE/P.A.