

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

904 REVIEW APPLICATION (CIVIL) NO.21 OF 2019
IN
CA/16724/2016

SHANTABAI SITARAM PHIRKE AND OTHERS
VERSUS
VASUDEO ANANDA PATIL AND OTHERS

...
Advocate for Applicants : Mr.AB Kharosekar, Adv. h/for Mr.
Barlinge S.R.;
Mr. D.R.Markad, Adv. For R/1 & 3.

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 4th December, 2021

PER COURT :-

1. Learned Advocate Mr. Kharosekar holding for Advocate Mr.Barlinge, submits that Mr. Barlinge is not available today.

2. Learned Advocate for Respondent Nos.1 and 3 is pointing out that present application has been filed for review of order dated 28.7.2017 passed by this Court which was on the application for re-calling back the order passed by this Court of dismissal of Second Appeal No. 268/1994 on 28.10.2015, for which, there was delay of eleven months. By order dated 28th July, 2017, the said application was rejected by this Court. However, he is pointing out a copy of order passed by the Hon'ble Supreme Court in Special Leave Petition (Civil) Diary No.28220/2017, which was arising out of the impugned final judgment and order dated 28.10.2015 in Second Appeal No.268/1994 passed by this Court. The matter was called out before the Hon'ble Apex Court on 1st December, 2017. Permission to file

(2)

Special Leave Petition was granted, however, the Special Leave Petition was dismissed on the ground of delay. Under such circumstance, the Civil Application No.16724/2016, which was for re-calling of order dated 28.10.2015, was not maintainable and, therefore, the present application for review of that order, is not maintainable. When the Apex Court has, in a way, confirmed the order passed by this Court, dismissing the Second Appeal on 28.10.2015, question of re-call of order does not arise. The Civil Application, therefore, stands dismissed.

(SMT. VIBHA KANKANWADI)
JUDGE

BDV