

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

MISC. CIVIL APPLICATION NO.675/2021

IN

WRIT PETITION NO.4464/2018 (D)

Smt. Sushila w/o Khemraj Kachhawa and another

...Versus...

Omprakash s/o Sudamamal Mohnani

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

Court's or Judge's orders

Shri G.A. Kunte, Advocate for applicants

CORAM : AVINASH G. GHAROTE, J.

DATE : 20/12/2021

1. This application seeks review/recall of the order dated 21/08/2021 passed in Writ Petition No.4464/2018 on the ground, that in a suit for specific performance, the framing of additional issues, as indicated in para 8 of the said judgment, by the learned Trial Court, was incorrect for the reason that the Municipal Council, Wardha was a necessary party and so also leasehold rights could not be transferred by grant of specific performance. Except for the plea, that the applicants/respondents, were absent when the writ petition was decided, no other plea has been raised apart from reliance on *Delhi Development Authority Vs.*

Gaurav Kukreja (2015) 14 SCC 254 to contend that the GPA sales were not permissible. The entire controversy raised regarding grant of specific performance, where there is a prohibition claimed for transfer of the leasehold properties, is a matter of evidence to be brought on record and considered by the learned Trial Court while granting specific performance. So also, merely because the Municipal Council, Wardha is claimed to have framed the policy for prohibiting transfer of leasehold properties, that by itself, cannot be a ground to consider the impleadment of Municipal Council, Wardha in the suit as a proper and necessary party as any such policy, can always be brought on record.

2. I, therefore, do not see any grounds for review. The misc. civil application is therefore rejected. No costs.

(AVINASH G. GHAROTE, J.)

Wadkar