

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

**REVIEW APPLICATION (CIVIL) NO.30 OF 2022**  
**IN SA/440/2021**  
**WITH CA/11372/2021 IN SA/440/2021**

VENKATRAO SANTRAM KOLPUKE  
VERSUS  
MAHDAV ALIAS MAHADEO PANDITRAO PATIL AND OTHERS

...  
Advocate for Applicant : Mr. Manale Satish S.  
AGP for Respondent No.1 and 3 : Mr. D. Y. Bhide  
...

**CORAM : SMT. VIBHA KANKANWADI, J.**  
**DATE : DECEMBER 16, 2022.**

**ORDER :-**

. Heard learned Advocate Mr. S. S. Manale for the applicant and learned Advocate Mr. D. Y. Bhide for respondent Nos.1 and 3.

2. This Court by order dated 25.10.2021 admitted the second appeal by giving reasons. Now, the learned Advocate for the review applicant submits that some of the substantial questions of law, which have been framed by this Court, are not arising, especially question No.1, 3 to 5. According to him, only question No.2 may arise, but for that purpose also the judgment of the first Appellate Court is elaborate.

3. It is to be noted that the review is maintainable when there is error apparent on the face of the record. As regards the second

appeal is concerned when this Court finds that there are substantial questions of law as contemplated under Section 100 of the Code of Civil Procedure, those questions are required to be formulated and the appeal is required to be admitted. Even if an issue has been decided by the Courts below, yet there can be a substantial question of law when it relates to either question of law purely or it is a mixed question of law and fact. Taking into consideration the reasons stated, it cannot be considered that there is any error apparent on the face of the record while formulating substantial questions of law.

4. As regards the statement in paragraph No.10 of the order is concerned, it is stated that there is a wrong statement. Learned Advocate for the respondent had not stated that as on today, there is no execution proceeding taken up by him. May be its a mistaken fact and therefore, those observations or statement required to be deleted or ignored. However, it is to be noted that no stay was granted by this Court, rather it was stated that liberty was granted to the applicants to move the Courts, if steps would be taken by the respondent - plaintiff for the execution of the decree. That sentence require no change. Under such circumstance, the sentence in paragraph No.10 of the order dated 25.10.2021 i.e. "However, it has been stated by the learned Advocate for the respondent that as on today there is no execution proceeding taken up by him", be considered as deleted.

5. The review application stands dismissed.
6. Pending civil application stands disposed of.

**[ SMT. VIBHA KANKANWADI ]**  
**JUDGE**

scm