

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
REVIEW PETITION NO. 5 OF 2022
IN
WRIT PETITION NO. 210 OF 2017

HNG Enterprises ...Petitioner
Versus
Municipal Corporation of Greater Mumbai & Ors ...Respondents

Mr Rajendra Pai, *with Cherin, i/b Niranjan & Co, for the Review*
Petitioner.

Mr Sameer Tendulkar, *for Respondents Nos. 13 & 14.*

CORAM G.S. Patel &
Madhav J. Jamdar, JJ.
DATED: 21st September 2022

PC:-

SHEPHALI
SANJAY
MORMARE

Digitally signed by
SHEPHALI SANJAY
MORMARE
Date: 2022.09.22
15:19:17 +0530

1. Mr Pai on behalf of the Review Petitioner seeks a review of our order dated 15th November 2022. We disposed of the Writ Petition and accompanied Chamber Summons. Paragraphs 3 to 6 of that order read thus:

“3. The Affidavit in Reply of Respondent No. 13, Shaunak Dilip Kirkire (at page 202) asserts that the Petitioner delivered possession of the garage before 28th March 2011. The electricity meter was disconnected on 2nd December 2012. The garage was itself demolished on 1st

February 2015. In the Affidavit in Rejoinder, these assertions are disputed and controverted by the Petitioner.

4. What is beyond doubt is that these are all said to be events of February 2015 or possibly several years earlier. The Writ Petition is filed only in 2017.

5. The Petitioner has in fact filed a substantive Suit No. 818 of 2016 (prior to the filing of this Writ Petition) in the Bombay City Civil Court.

6. In view of this, we see no reason to entertain the Writ Petition. It is well settled that disputed questions of fact cannot be examined in exercise of the extraordinary and discretionary writ jurisdiction of the High Court under Article 226 of the Constitution of India.”

2. Mr Pai points out what was filed in the City Civil Court (Suit No. 848 of 2016) was an action under Section 6 of the Specific Relief Act alleging forcible dispossession. It was not a suit that was agitated substantial question of title.

3. In our view, this will make no difference to the final outcome, for the reasons set out in paragraph 3 of the order under review.

4. We are unable to see how there is any ground made out for review within the meaning of Section 114 or Order 47 of the Civil Procedure Code, 1908.

5. The Review Petition is dismissed. No costs.

(Madhav J. Jamdar, J)

(G. S. Patel, J)