

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

**902 REVIEW APPLICATION (CIVIL) NO.144 OF 2022
IN AO/36/2018**

**MANORAMA ACHYUTRAO PATIL AND OTHER
VERSUS
MAHADEO DAMODAR GAHUDALE AND ANOTHER**

...
Advocate for Applicants : Mr.Choudhari Sushant B.
Advocate for Respondent No. 1 : Mr.Abhijit S. More
...

CORAM : R. G. AVACHAT, J.

DATE : 29.03.2023.

PER COURT :

1. Heard.
2. This application has been moved for review of the order passed by this Court on 07.10. 2019.
3. The learned Advocate for the applicants submits that it was a suit for injunction simplicitor. The trial Court had dismissed the suit. Against the said decree, an appeal was preferred. The appellate Court partly allowed the appeal and remanded the suit back to the trial Court. The said order was taken exception to by filing Appeal from the Order before this Court. This Court allowed the said appeal directing the trial

Court only to give finding on the issue as to the title of the plaintiff in respect of the suit property. The said order is now sought to be reviewed, basically on the ground that the developments that had taken place in the suit before the trial Court were not brought to the notice of this Court, while the Appeal from the Order was being heard.

4. It is informed that the suit was amended with incorporation of the pleadings that the plaintiff was unauthorizedly dispossessed of the suit property pending the suit. According to the learned Advocate for the applicants, the plaintiff needs to be permitted to lead the evidence on this aspect as well, while the trial Court would be recording evidence to give finding on the issue directed to be answered.

5. The learned Advocate for the respondent in this application has strong objection.

6. The fact that the suit was amended incorporating therein that the plaintiff was dispossessed from the suit property pending the suit, was not brought to the notice of this

Court. The order allowing the amendment to the pleadings appears to have not taken exception to by the respondent of this application. The applicant/plaintiff would, therefore, be necessarily entitled to lead evidence in proof of his claim to have been dispossessed, which has been introduced by amending the plaint. With the aforesaid observations, the review application stands disposed of.

(R. G. AVACHAT)
JUDGE

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