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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION***

***REVIEW PETITION NO. 119 OF 2022  
IN  
WRIT PETITION NO. 2644 OF 2022***

Sadhana Kaluram Satav (Rokade) and Anr. ... Review  
Petitioners  
Versus  
Ashok Shantilal Jain and Ors. ... Respondents

***WITH  
INTERIM APPLICATION NO. 17916 OF 2022  
IN  
WRIT PETITION NO. 2644 OF 2022***

Sadhana Kaluram Satav (Rokade) and Anr. ... Applicants  
In the matter between  
Ashok Shantilal Jain and Ors. ... Petitioners  
Versus  
The State of Maharashtra and Ors. ... Respondents

***WITH  
WRIT PETITION NO. 2644 OF 2022***

Ashok Shantilal Jain and Ors. ... Petitioners  
Versus  
The State of Maharashtra  
Through the Deputy Commissioner  
of Police and Ors. ... Respondents

***WITH  
WRIT PETITION (ST) NO. 24789 OF 2022***

Sadhana Kaluram Satav (Rokade) and Anr. ... Petitioners  
Versus  
The State of Maharashtra and Ors. ... Respondents

**WITH**  
**CONTEMPT PETITION NO. 720 OF 2022**  
**IN**  
**WRIT PETITION NO. 2644 OF 2022**

Ashok Shantilal Jain and Ors. ... Petitioners

Versus

The State of Maharashtra  
Through the Deputy Commissioner  
of Police and Ors. ... Respondents

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Mr. Mandar Limaye, for the Petitioners in RPW/119/2022 & WPST/24789/2022.

Mr. Amit Patil i/b. Parimam Law Associates for Petitioners in WP/2644/2022 & CP/720/2022.

Mr. A.A. Alaspurkar, AGP in RPW/119/2022 for State.

Mr. Kedar Dighe for Respondent No.3 in WPST/24789/2022.

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**CORAM : REVATI MOHITE DERE &**  
**MADHAV J. JAMDAR, JJ.**

**DATE : 19<sup>th</sup> JANUARY, 2023**

**ORDER:** (Per Madhav J. Jamdar, J.)

1. By the present Review Petition, the Petitioners are seeking review of order dated 19<sup>th</sup> April 2022 passed in Civil Writ Petition No.2644 of 2022.

2. In Writ Petition No.2644 of 2022 by prayer clause (a), condition in the order dated 5<sup>th</sup> July 2021 passed by the Respondent No.1- Deputy Commissioner of Police, Zone-4, Pune which requires presence of Respondent Nos.2 or 3 on the

Petitioners property being Gat No.1395/1 (Old Gat No.2381/1) situated at village Wagholi, Taluka Haveli in Pune District (hereinafter referred to as “said property”) at the time of construction of compound wall by the Petitioners on the said property is challenged and it is prayed to quash and set aside the said condition. By prayer clauses (b) and (c), Respondent No.1 was directed to grant police protection at the time of construction of said compound wall on the Petitioners’ property.

3. At the time of hearing of the Writ Petition on 19<sup>th</sup> April 2022, the challenge as made in prayer clause (a) was given up. This Court disposed of the Writ Petition, *inter-alia*, by directing that the Petitioners to communicate well in advance the date and time to Respondent No.2 as to when the said construction would be carried out so as to enable the Respondent No.2 or his authorised officer to remain present, in terms of the said order dated 5<sup>th</sup> July 2021. Accordingly, Writ Petition was disposed of.

4. It is the contention of the Review Petitioners that they are co-owners of the land which is the subject matter of the said Writ Petition No.2644 of 2022 i.e. the said property. It is the submission of the Review Petitioners that allegations are made

against the Review Petitioners in Writ Petition and inspite of the same, they were not made parties to the Writ Petition.

5. Mr. Mandar Limaye, learned counsel appearing for the Review Petitioners substantiated the said contention by pointing out the contentions raised in paragraph No.4(h) and 4(i) of the Writ Petition. The contentions raised in the Writ Petition clearly show that the allegations are made against the Review Petitioners.

6. It is the contention of the Review Petitioners in Writ Petition that they are the co-owners of various lands including the land which is subject matter of said Writ Petition No.2644 of 2022. It is contended that the legal heirs of Tukaram Maruti Satav filed Regular Civil Suit No.467 of 2006 seeking partition and the Review Petitioners are Defendant Nos.9 and 10 in the said suit. The said suit was decreed by the Judgment and Decree dated 3<sup>rd</sup> May 2010 by the learned Joint Civil Judge, Junior Division, Pune. By said decree the Defendant Nos.1 to 8 were restrained perceptually from constructing over or creating third party rights in the said land. The said Judgment and Decree was challenged by filing Regular Civil Appeal No.510 of 2010 and the same was dismissed by the learned First Appellate Court by Judgment and

Decree dated 7<sup>th</sup> April 2016. The Darkhast filed bearing Regular Darkhast No.205 of 2010 seeking execution of Judgment and Decree passed in said Regular Civil Suit No.467 of 2000 is pending. It is the contention of Mr. Mandar Limaye, learned counsel appearing for the Petitioners that by Judgment and Decree dated 3<sup>rd</sup> May 2010 of the learned Trial Court, the Defendant Nos.1 to 8 were perpetually restrained from constructing over or creating any third party interest in respect of the suit properties by either themselves or anybody claiming through them. It is the submission that the original Petitioners have deliberately suppressed the fact that the legal heirs from whom they have purchased their undivided shares in said lands were restrained from creating any third party right in the said lands by said Judgment and Decree dated 3<sup>rd</sup> May 2010. It is his further contention that the Review Petitioners have not sold their undivided shares in the said lands to the original Writ Petitioners and that their undivided share is yet not divided by metes and bounds. At the hearing of the Review Petition, it is also the contention of Mr. Limaye, learned counsel appearing for the Petitioners that the present Review Petitioners have also filed Civil Writ Petition (St.) No.24789 of 2022 challenging the said

order dated 5<sup>th</sup> July 2021. Various contentions are also raised by the learned Advocate appearing for the Respondent Nos.1 to 3 i.e. the original Petitioners. However, we are not going into the said contentions.

7. It is admitted position that in the present Petition i.e. Writ Petition No.2644 of 2022 certain allegations are made against the present Review Petitioners and they are not made parties to the present Writ Petition and the order under review dated 19<sup>th</sup> April 2022 has been passed in Writ Petition No.2644 of 2022 without hearing them.

8. In view of above position, we are recalling order dated 19<sup>th</sup> April 2022 passed in Writ Petition No.2644 of 2022 only on the limited ground that the Review Petitioners are not impleaded as parties to the said Writ Petition and they were not heard before passing the order. Respondent Nos.1 to 3 are directed to implead the Review Petitioners as parties to the Writ Petition No.2644 of 2022. Amendment be carried out within a period of three weeks from the date of uploading of this order.

9. It is clarified that the contentions of all the parties are expressly kept open and this Court has not considered the merits

of the case. Review Petition is disposed of in above terms with no order as to costs.

10. All parties to act upon an authenticated copy of this order.

**MADHAV J. JAMDAR, J.**

**REVATI MOHITE DERE, J.**