



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION (CIVIL) NO. 286 OF 2023
IN
Writ PETITION NO.3687 OF 2023

Chandrakant Vishwanath Dhamal
And Another

....Applicants

VERSUS

Ashok Karbhari Amate
And Others

... Respondents

.....

Mr. A.M. Gholap, Advocate for the Applicants
Mr. A.R. Kale, AGP for Respondent Nos.48 and 49
Mr. P.R. Nagare, Advocate for Respondent Nos.1 to 47

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 17th JANUARY, 2024

ORDER :

1. By this application, the applicants seek review of order dated 03.10.2023 passed in Writ Petition No.3687 of 2023.

2. Learned advocate for applicants submitted that powers under Order 39 Rule 1 and 2 are to be exercised, if *prima facie* case, balance of convenience and irreparable loss is established. Trial Court had failed to follow these three criterias, and therefore, Appellate Court was justified in modifying the order of Trial Court subject to final decision of

suit, and it was not other view possible, but it was a correction of palpable error committed by Trial Court. He further submitted that at the most the matter could have been remanded back to the Appellate Court for fresh consideration by setting aside Appellate Court's order. Hence, order passed by this Court needs to be reviewed.

3. The order under review is passed after hearing both the parties on merits. Arguments now advanced by applicants were advanced and considered at the time of deciding the writ petition. Applicants have repeated old and overruled arguments, and the present review appears to be an appeal in disguise. No case for review is made out by applicants. Review application being devoid of merits is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE

S.P. Rane