



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIM. REVISION APPLICATION NO. 270 OF 2023

- | | | |
|-----------------------------------|---|---------------------------------------|
| 1. Rashmi Mehrotra |] | |
| Aged 61 years, Indian Inhabitant, |] | |
| Residing at 10-B, Tower D, |] | |
| Viceroy Park, Thakur Village, |] | |
| Kandivali (E), Mumbai – 400 101. |] | |
| |] | |
| 2. Anoop Mherotra, |] | |
| Aged 63 years, Indian Inhabitant, |] | |
| Residing at 10-B, Tower D, |] | |
| Viceroy Park, Thakur Village, |] | |
| Kandivali (E), Mumbai – 400 101. |] | <u>...Revision Applicants.</u> |

Versus

- | | | |
|---|---|-------------------------------|
| 1. Manvi Sheth, |] | |
| Aged 31 years, Indian Inhabitant, |] | |
| Residing at Flat No.503, A Wing, |] | |
| Neelganga Apartments, Lower Parel, |] | |
| Mumbai – 400052. |] | |
| |] | |
| 2. The State of Maharashtra |] | |
| Through the Public Prosecutor of Sessions |] | |
| Court For Greater Mumbai at Mumbai. |] | <u>...Respondents.</u> |

*Mr. Shanay Shah i/b Ms. Nerissa Almeida for the applicants.
 Mr. Pritesh Burad, Samit Vaviya and Ms. Madhuri Gamre i/b Pritesh Burad
 Associates for respondent No.1.*

Coram : Sharmila U. Deshmukh, J.

Reserved on : January 16, 2024.

Pronounced on : February 1, 2024.

JUDGMENT:

1. Revision application challenges the order dated 17th July 2023 passed by the learned Sessions Judge in Criminal Appeal No. 111 of 2022 allowing the Appeal of Respondent No.1 and setting aside the order dated 6th April, 2022 passed by the Metropolitan Magistrate discharging the Applicants from the proceedings filed under the provisions of Protection of Women from Domestic Violence Act, 2005 [for short “the DV Act”].

2. The relationship of parties *interse* is not in dispute. Revision applicants are the mother-in-law and father-in-law of respondent no.1. Respondent no.1 was married to Arjun, the son of revision applicants on 9th February 2020. An application under section 12 of the DV Act came to be filed by respondent no. 1 against her husband and the applicants on 22nd February 2021. The applicants preferred an application dated 17th March 2021 before the Magistrate challenging the maintainability of complaint and for dropping of the proceedings / striking off / discharge / deleting their names from the array of parties as respondents. The said application came to be resisted by respondent no.1. The Metropolitan Magistrate vide order dated 6th April 2022 discharged the Applicants herein from the proceedings. Against the order of discharge, Criminal Appeal No. 111 of 2022 under Section 29 of the DV Act came to be filed by respondent no. 1. By the

impugned order dated 17th July 2023, the appeal was allowed and the order of Magistrate was quashed and set aside.

3. Heard Mr. Shanay Shah, learned counsel appearing for the applicants and Mr. Pritesh Burad, learned counsel appearing for respondent no. 1.

4. Mr. Shah, learned counsel for the applicants submits that since inception of marriage, respondent no.1 and the applicant's son Arjun are residing at A1-801, Gundecha Trillium, Thakur Village, Kandivali East, Mumbai [for short "Gundecha premises"] pursuant to a registered leave and licence agreement whereas the applicants' residence at all times was 10B, Tower D, Viceroy Park, Thakur Village, Kandivali East, Mumbai [for short "Viceroy premises"]. He would submit that in the application filed under section 12 of the DV Act by respondent no.1, the relief sought is to restrain the respondents from alienating the Complainant and her belongings from the shared matrimonial household being A1-801, Gundecha Trillium, Thakur Village, Kandivali East, Mumbai and to restrain the applicants from dispossessing the complainant from the shared matrimonial household – Gundecha and a direction to the respondents to remove themselves from the shared matrimonial household being Gundecha. He has invited the attention of this Court to the pleadings in

paragraph 12 of the complaint that on 11th February 2020, complainant's grihapravesha was organised at Gundecha which is the shared matrimonial household of complainant where she has been living with Arjun in domestic relationship. He would further point out the pleadings in paragraph 18 of the complaint wherein it is contended that there was quarrel between respondent no.1 and Arjun; at that time the parents of respondent no.1 were residing with respondent no.1 and that respondent no.1's parents then spoke to the applicants regarding Arjun's action. He would further point out the pleadings in paragraph 28 of the complaint that shared household of the parties is Gundecha. According to Mr. Shah, it is a specific case in the complaint that the premises at Gundecha is a shared household. He submits that the definition of domestic relationship under Section 2(f) of DV Act contemplates a relationship between the parties who lived or have at any point of time lived together in a shared household and that being so, on reading of the complaint as it is, it cannot be said that there was any domestic relationship between the applicants and respondent no.1 as the shared household according to respondent no.1 was Gundecha. He submits that the complaint does not show that the parties at any point of time resided together at Gundecha. He would submit that the pre-requisite of domestic relationship does not stand satisfied and the provisions of DV Act are not applicable. He

would further point out that although there are some averments in the complaint as regards the applicants residing with respondent no.1 at Gundecha, it is settled that fleeting visits cannot satisfy the ingredient of shared household as defined in Section 2(s) of DV Act. He submits that for the purpose of application of D.V Act, there has to be some permanency attached to the residence in shared household. He submits that the reliefs claimed can at the most be claimed against Arjun and not against the applicants. He distinguishes the decision of the Apex Court in ***Prabha Tyagi v Kamlesh Devi [(2022) 8 SCC 90]*** and submits that the facts of that case are clearly distinguishable and in the facts of that case, the issue answered by the Apex Court was that it was not mandatory for the aggrieved person to reside with the persons against whom the allegations are levelled at the point of commission of violence. He would further submit that the Apex Court in the facts of that case held that there was subsisting domestic relationship between the aggrieved person and the person against whom the relief was claimed which facts are clearly distinguishable in the present case. Mr. Shah would further submit that in the FIR lodged against the applicants under section 498A of IPC , the police have filed a closure report under section 169 of the Code of Criminal Procedure, 1973. In support of his submissions, Mr. Shah relies upon following decisions :

- A] ***Sudama Dutt Sharma v State of Rajasthan [2016 SCC OnLine Raj 8192];***
- B] ***Decision of this Court in Crim. Application No. 312 of 2023 (Aurangabad Bench) in Dhananjay Mohan Zombade v. Prachi Dhananjay Zombade decided on 18th July 2023;***
- C] ***Decision of this Court in Crim. W.P. No. 814 of 2022 (Nagpur Bench) in Sou. Shradha Sumti Fogla v. Narayanprasad B. Fogla decided on 5th April 2023.***

5. *Per contra* Mr. Burad, learned counsel for respondent no.1 submits that application for discharge was not maintainable in view of the decision of Apex Court in ***Kamatchi v. Lakshmi Narayan [2022 SCC OnLine SC 446]***. Pointing to the decision of Full Bench of Madras High Court in the case of ***Arun Daniel v. Suganya [2022 SCC OnLine Mad 5435]***, he submits that Full Bench of Madras High Court has held that subject matter of DV Act proceedings is purely a civil matter and the Magistrate exercising jurisdiction under section 12 of the DV Act is not a criminal Court. He submits that in view thereof, the application seeking discharge itself was not maintainable. As regards merits of the case, Mr. Burad submits that there was a domestic relationship between respondent no. 1 and the applicants as the applicants were residing with respondent no.1 in both matrimonial shared households, i.e., "Gundecha premises" and "Viceroy premises", as the ownership of both the properties vest with the applicants and they were residing together as a joint family. Pointing to the decision of

learned Sessions Court, he submits that it is the specific observation of the Sessions Court that there is substantial material in the form of specific averments made by the complainant in DV Act proceedings. He would further submit that the health insurance policy and the employment letter of respondent no.1 confirms that she was residing at "Viceroy premises" with the applicants. He submits that there is a pre-planned conspiracy to oust respondent no.1 from the shared household which is evident from the factual position that after the copy of complaint was served upon the applicants on 23rd February 2021, the leave and licence agreement was terminated on 2nd March 2021 and now the property has been given on leave and licence basis to some third party. He further submits that the trial Court as well as the Sessions Court have considered that relationship between the parties is not merely licensor and licensee which is evident from the fact that the applicant had added the name of respondent no. 1 for the purpose of using the club facilities in "Gundecha premises". Pointing to the pleadings in the application, he would submit that the instances of mental torture, physical abuse, domestic violence and emotional abuse inflicted by the applicant have been narrated in the complaint and as such *prima facie* case of domestic violence is made out. He submits that the decision in the case of **Prabha Tyagi** (supra) is squarely applicable to facts of present case. He would further point

out the order passed by Metropolitan Magistrate dated 23rd October 2021 in application under Section 23 of DV Act holding that there is ample evidence on record to show that the respondent and the applicants were residing at Gundecha. At this stage, learned counsel appearing for the applicants would submit that the said order has been stayed by the Sessions Court. In support of his submissions, learned counsel for respondent no.1 relies upon the following decisions:

- A] ***Neeharika Infrastructure Pvt. Ltd v. State of Maharashtra [2021 SCC OnLine SC 315];***
- B] ***Manohar Keshardev Mali v. CBI [2019 SCC OnLine Bom 8916];***
- C] ***Decision of this Court in Crim. Application No. 179 of 2020 (nagpur Bench) Jalendra Sakharam Khare v. State of Maharashtra decided on 6th June 2023.***

6. In rejoinder, Mr. Shah would submit that in paragraph 9(d)(iii), of the affidavit-in-reply filed to the present revision, the respondent no.1 has sought to clarify that during Covid-19 pandemic the applicants started residing with respondent no.1 at Gundecha premises, which pleading with clarity is missing from application under section 12 of the DV Act. He would submit that in ***Sudama Dutt Sharma (supra)*** the Rajasthan High Court has held that in the absence of concrete proof about the domestic relationship i.e., the

applicants and respondent no.1 had been living in a shared household and she has been subjected to domestic violence, the maintainability of complaint itself is under serious cloud.

7. Considered the submissions and perused the record.

8. Firstly, I shall deal with the objection on ground of maintainability of application for discharge as raised by Mr. Burad, by relying upon the decision in ***Kamatchi v. Lakshmi Narayanan 2022 SCCOnline SC 446***]. In that case Petition was filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of the DV proceedings. The Apex Court was considering the issue of limitation qua Section 468 of Code of Criminal Procedure, 1973 (Cr.PC). One of the submission raised before the Apex Court was that in view of ***Adalat Prasad v. Rooplal Jindal [(2004) 7 SCC 338]***, the remedy lies in invoking Section 482 of Cr.P.C. The Apex Court held that the scope of notice under section 12 of the DV Act is to call for the response from the respondents in terms of statute so that after considering rival submissions appropriate order can be passed and that the matter stands on different footing and the dictum of ***Adalat Prasad (supra)*** would not get attracted at the stage notice is issued under section 12 of the DV Act. As regards the decision in ***Arun Daniel (supra)***, which is a decision of Full bench of Madras High Court, it needs to be noted

that the Full Bench of this Court in ***Nandakishor Vyavhare v. Mangala [2018(2) Bom C.R.(cri.) 626]*** has held that the inherent powers under section 482 of the Code can be invoked for the purpose of quashing of DV proceedings. In the instant case, the Revision Application challenges the order passed under Section 29 of the DV Act by the Appellate Court reversing the order of the Metropolitan Magistrate discharging the Revision Applicants. The present application not being an application under Section 482 of Cr.P.C, the entire discussion as to whether proceedings for quashing under section 482 of Cr.P.C. is maintainable or not is unwarranted. The revision application is maintainable against the order passed under section 29 of the DV Act.

9. Now coming to the merits of the matter, the thrust of the submissions of Mr. Shah for the Applicants is that considering the definition of domestic relationship and shared household under Section 2(f) and Section 2(s) of the DV Act, the Applicants and the Respondents cannot be said to be in a domestic relationship. This submission is premised on the ground that in the application under Section 12 of DV Act, the Respondent No 1 has claimed “Gundecha premises” as shared household and that there are no averments in the application to indicate that the Applicants resided with the Respondent in “Gundecha premises”.

10. Before proceeding further it will be profitable to reproduce the definition of “aggrieved person”, “domestic relationship” and “shared household” as defined in Section 2(a), Section 2(f) and Section 2(s) of the Act, which read thus :

- (a) *‘aggrieved person’* means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent
- (f) *“domestic relationship”* means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family.
- (s) *“shared household”* means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household.”

11. Conjoint reading of the above definitions would indicate that the aggrieved person is required to be in domestic relationship i.e. should have lived or have at any point of time lived together in a shared household. A shared household is a household where the

aggrieved person lives or at any stage has lived in a domestic relationship either singly or along with the Respondents. It also includes the household owned or tenanted by the aggrieved person and the Respondent either jointly or by either of them and in respect of which either of them jointly or singly have any right title or interest or equity. It also includes a household belonging to the joint family of which the Respondent is member irrespective of any right title or interest in the shared household.

12. What is presented for consideration is whether absent the factual scenario of not having resided together in the shared household, the requirement of domestic relationship is satisfied or not. In the instant case, it is not disputed that parties are related by marriage. However, what is sought to be submitted is that the parties had not lived together in a shared household which as per application under section 12 of the DV Act is "Gundecha premises". The admitted position is that the premises at "Gundecha premises" as well as "Viceroy premises" are owned by the Revision Applicants and the premises at "Gundecha premises" was given on leave and licence basis to Arjun, the son of applicants.

13. In the application filed under Section 12 of the DV Act, Respondent No.1 has referred to "Gundecha premises" as the

matrimonial shared household. The question is whether by referring to “Gundecha premises” as matrimonial shared household by the Respondent No1, the statutory definition of shared household under Section 2(s) of DV Act will be restricted in its applicability only to “Gundecha premises” and not “Viceroy premises”. In my opinion, the answer is an emphatic “No”. For the purpose of considering whether the parties are in domestic relationship, irrespective of the pleadings, the statutory definition will have to be given effect. As stated above, the definition of “shared household” includes a household which may belong to the joint family of which the Respondent is a member, which in the present case is “Viceroy premises”.

14. Even if the contention of Mr.Shah is accepted that the parties never resided at “Viceroy premises”, the fact is Respondent No 1 had a right to reside in “Viceroy premises”. If that right exists in Respondent No 1, then the parties will have to be held to be in domestic relationship as held by the Apex Court in case of ***Prabha Tyagi*** (supra).

15. It will be necessary to consider the decision in ***Prabha Tyagi (supra)*** in some detail. In that case, the aggrieved person was married on 18th June, 2005 and on 15th July, 2005 her husband expired and the aggrieved person was constrained to reside at her parents house. The

contention of the Respondents was that the aggrieved person had stayed only one night after her marriage at the ancestral house and was thereafter residing separately with her husband and there was no domestic relationship. Two issues relevant for our purpose which was under consideration of the Apex Court was whether there should be a subsisting domestic relationship between the aggrieved person and the persons against whom relief is claimed and whether it is mandatory for the aggrieved person to reside with those persons against whom allegations have been levelled at the time of commission of violence. The High Court in that case had held against the aggrieved person for the reason that it was necessary to show that the aggrieved person was sharing the household with the respondent and there was domestic relationship between the parties. The Apex Court observed that sub section (1) of Section 17 of DV Act confers right on every woman in a domestic relationship to reside in the shared household and is not restricted to actual residence. By way of illustration, the Apex Court has explained that a woman who is or has been in a domestic relationship has the right to reside not only in the house of her husband, if it is located in another place which is also a shared household but also in the shared household which may be in a different location in which the family of her husband resides.

16. The Apex Court while answering the issue as to whether it is mandatory for the aggrieved person to reside with those persons against whom the allegations have been levelled has held that it is not mandatory for the aggrieved persons to have actually lived or resided with those persons against whom the allegations have been levelled at the time of seeking relief. Pertinently, the issue as regards the subsisting domestic relationship was answered by the Apex Court in paragraph 62 as under:

"62. As the appellant had a right to reside in the shared household as she was in a domestic relationship with her husband till he died in the accident and had lived together with him therefore she also had a right to reside in the shared household despite the death of her husband in a road accident. The aggrieved person continued to have subsisting domestic relationship owing to her marriage and she being the daughter in law had the right to reside in the shared household"

17. The decision in ***Prabha Tyagi (supra)*** is sufficient answer to the submission that as the Revision Applicants and Respondent No 1 did not reside in "Viceroy premises" there is no subsisting domestic relationship. It cannot be denied that whether at Gundecha or Viceroy, both the premises belonging to the applicants, respondent no. 1 being the wife of their son, had a right to reside in either of the premises.

18. Apart from the discussion above, in the instant case there is specific pleading about the parties having resided together in “Gundecha premises”. It has been stated in paragraph 12 and 19 as under :

“12. That at the time of the marriage between the Complainant and the Respondent No.1, the Complainant was given various valuable items and jewellery by the Respondents as well as from her parents, family and friends. The same forms part of the Complainant's istridhan, After marriage, on 10th February 2020 the Complainant went to Mumbai and started staying at 10 B, Tower D, Viceroy Park, Mumbai. Pertinently, after the wedding, the Respondents 1, 2 and 3 represented to the Complainant that it would not be safe to keep so much jewellery with the Complainant alone and that the Respondents would keep it safe, and in the event the Complainant required it, they would return it to her. The Complainant was made to entrust her entire istridhan to the Respondents No.1, 2 and 3 on the pretext of safe keeping and only retained daily wear jewellery etc. It is submitted that on 11th February 2020, the Complainant's 'Greh Pravesh' was organised at an Apartment bearing No.A-1, 801, Gundecha Trillium, Thakur Village, Kandivali East, Mumbai, which is the matrimonial shared household of the Complainant where she has been living with the Respondents in a domestic relationship. However, right after marriage and during lockdown due to COVID-19, the parties were initially residing together at property bearing no. 10B, Tower D, Viceroy Park Mumbai, which is in 1KM radius of the aforesaid matrimonial household of the Complainant being Apartment bearing No. A-1, 801, Gundecha Trillium. After the lockdown was relaxed, the Respondents started residing at Apartment bearing No. A-1, 801, Gundecha Trillium. It is submitted that the Respondent No. 3 owns both the aforementioned properties and the parties till

today are residing together. It is further submitted that all times all the Respondents live together as a joint family and are in continuous domestic relationship with each other."

"19..... The parents of the Respondent No 1 i.e. Respondent Nos 2 and 3 were present at the house as they were sleeping in the other room and were there during the entire incident, however they failed to utter a single word in support of the Complainant and instead joined the Respondent No 1 and further insulted the Complainant"

19. In the reply filed by the No.1 to the discharge application, it is specifically pleaded that the Applicants own both the properties and the Complainant has been residing with the Respondents in both the premises as a joint family. It is also contended that health insurance policy bought by the husband of the Complainant as also her employment letter reflects the address of "Viceroy premises". The submission of Mr. Shah that the living in the household denotes certain permanency to be attached to the residence cannot be brushed aside as mere casual visits or fleeting visits is not sufficient to establish domestic relationship between the parties. However, in the instant case, the submission of Mr. Shah cannot come to the aid of the Applicants for the reason that the Respondent No 1 has specifically pleaded about the parties residing together in "Gundecha premises" after lockdown was relaxed and that the parties continued residing and at all time lived together as a joint family. It also needs to be

noted that both the premises are situated within a distance of 1 Km and even if the duration of residence is not pleaded, the averments prima facie does not indicate that these were mere casual visits or fleeting visits. Whether the Respondent No 1 is able to substantiate the case is matter of trial. However at this stage it cannot be said that the application does not disclose the existence of domestic relationship between the parties. It is also pleaded that during the Covid pandemic the parties were resided at "Viceroy premises". Perusal of the application filed by the Respondent No 1 indicates allegations of domestic violence qua the Applicants as regards dispossessing her from "Gundecha premises", being tortured, harassed, abused and beaten for not bringing sufficient dowry and insulting and humiliating the parents of Respondent no. 1.

20. Pertinently, learned Single Judge of this Court in the case of ***Aditya Anand Varma v. State of Maharashtra [2022 All MR (Cri) 2317]*** was considering the challenge where an application by the petitioners therein to dismiss the DV Act application came to be rejected. In that case, the specific contention raised was that respondent no. 2 therein had never resided in the matrimonial house and was thus never in a domestic relationship. In that case, there was not even a pleading in the application that the parties had ever

resided together in a shared household. Learned Single Judge held that the decision in the case of ***Prabha Tyagi (supra)*** is a complete answer to the submission that since respondent no. 2 therein had not actually resided, respondent no. 2 was not in a domestic relationship with the petitioner. I am respectfully bound by the decision of the Apex Court as well as the co-ordinate bench of this Court. The decision in ***Sudama Dutt Sharma (supra)*** was prior to the decision of the Apex Court in ***Prabha Tyagi (supra)*** and does not assist the revision applicants.

21. The submission of Mr. Shah that the decision in the case of ***Prabha Tyagi (supra)*** is distinguishable in the facts is liable to be rejected for in that matter despite the death of husband of the aggrieved woman, by taking into consideration sub-section (1) of section 17 of the DV Act, the Apex Court had held that even right to live would entitle the aggrieved woman to file an application under section 12 of the DV Act. The factual scenario in the case before the Apex Court was that the aggrieved woman had never lived in the shared household but had lived separately with her husband. Despite that, the Apex Court held that in view of sub-section (1) of section 17 of the DV Act, the aggrieved person had a right to reside in the shared household and as such continued to have a subsisting domestic

relationship owing to her marriage and she being the daughter in law had a right to reside in the shared household.

22. In the present case, the facts are on a better footing inasmuch as in the application itself it has been contended by respondent no. 1 that the parties were residing together at “Gundecha premises” after the lockdown was lifted. In my view, the decision in the case of ***Prabha Tyagi (supra)*** which has been followed by learned Single Judge of this Court in the case of ***Aditya Anand Varma (supra)*** is squarely applicable to the facts of present case.

23. As regards the decision in the case of ***Dhananjay Zombade (supra)*** in the facts of that case, there were no pleadings in the complaint / application that the applicants therein were living with the respondent together as members of joint family and thus for want of specific pleadings and in view of an impeccable evidence placed on record showing their separate residence, learned Single Judge held that the applicants do not come within the definition of domestic relationship with the respondents. The facts of the case are clearly distinguishable as in the instant case as discussed above there are specific pleadings as regards the residence of the parties together at “Gundecha premises”.

24. As regards the decision in the case of ***Shradha Fogla (supra)***, the aggrieved person and her husband were residing in America for a period of almost 9 years and during this period she would come down to India and would have a fleeting visits to the matrimonial house and she never resided there permanently. In that case, there was no pleading of the applicant that she permanently resided in India and more particularly at the family residence at Mumbai and that she had not provided the actual duration of stay at the time of her visits to India. It was in the facts of that case, learned Single Judge had dismissed the petition of the aggrieved person discharging the in-laws except the husband. The said decision being clearly distinguishable is not applicable to the facts of present case.

25. The Trial Court by its order dated 6th April, 2022 held that the main allegations are against the Respondent No 1 and there are no specific allegations against the Respondents No 2 and 3. That, in the application both addresses have been provided, however, one person cannot reside at different places at the same time. The Trial Court considered the pleadings in the Complainant's application that "Gundecha premises" is the Complainant's matrimonial shared household. The Trial Court discharged the Revision Applicants for the reason that evasive allegations are made against Respondent No 2

and 3. Before this Court, there were no submissions advanced that the application under DV Act did not make out any case of domestic violence qua the Revision Applicants.

26. The Appellate Court rightly considered the pleadings in the application and held that specific contentions have been made about living in a joint family alongwith the Respondents and all of them having subjected the aggrieved person to domestic violence of different kinds on various occasions. The Appellate Court observed that though one person cannot live at different places at the same time he/she can certainly live in two houses situated in same city. In my opinion, there is no infirmity in the view taken by the Appellate Court.

27. Having regard to the discussion above, there is no merit in the revision application. Revision application stands dismissed.

28. In view of the disposal of revision, pending application taken out in this revision, if any, does not survive and the same is disposed of.

[Sharmila U. Deshmukh, J.]