

Vinaa Khadpe
(P.S.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION (ST) NO.30028 OF 2023

IN

WRIT PETITION NO.3966 OF 1999

AND

WRIT PETITION NO.3678 OF 2000

Manik Moreshwar Jaokar and anr

.. Petitioners

Versus

Sadashiv Nagappa Kadam and anr

.. Respondents

.....

- Mr. Sameer Singh, Advocate for the Petitioners.

.....

CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 12, 2024

P.C.:

- 1.** Not on Board. Mentioned. Taken on Board.
- 2.** This Review Petition has been filed to review the order dated 16 February 2023 passed by this Court while disposing Writ Petition No.3678 of 2000 and Writ Petition No.3966 of 1999. These Writ Petitions were filed in the year 2019, and the challenge, *inter alia*, in both Writ Petitions was to the order dated 10 March 1998 passed by the learned Co-operative Court in respect of the issue of entitlement of the subject Flat No.C-23.
- 3.** At the time of hearing, the Petitioners informed the Court that between the parties to the Writ Petitions a substantive Suit with respect to the right and entitlement of either of the parties to the

subject Flat No.C-23 being SC Suit No.6695 of 1991 was filed and it was still pending. This Court has noted the submissions of the Petitioners which are clearly reflected in paragraph No.8.1 and paragraph Nos. 9 and 11 in the order dated 16 February 2023.

4. In view of the substantive Suit between the parties for determining the right, title and entitlement to the subject flat being pending before the City Civil Court, this Court clearly opined and held that insofar as the orders passed below by the Co-operative Court or the Appellate Court are concerned, they shall be governed only by the final decree in the substantive Suit No.6695 of 1991 filed between the parties.

5. Today, by filing of the Review Petition, Mr. Singh, learned Advocate would argue that when the order dated 16 February 2023 was passed, the learned Advocate appearing for the Petitioners failed to inform this Court that the substantive Suit No.6695 of 1991 which was pending in the City Civil Court was in fact dismissed for non prosecution by the City Civil Court in favour of the Respondents.

6. Be that it may, even if the substantive Suit between the parties was dismissed for non prosecution vide order of its dismissal, such dismissal shall ultimately govern the legal rights of the warring parties as opined by the Court while disposing of the above Writ Petitions.

7. In that view of the matter, there is no error apparent found on the face of the record which requires to be corrected or clarified as the Writ Petitions were never decided on merits at all. No clarification is necessary. This order shall be read alongwith the order dated 16 February 2023 since only statements made by the learned Advocate of both sides is only recorded in both the orders.

8. With the above directions, Review Petition is disposed.

[MILIND N. JADHAV, J.]

Vinaa Khadpe

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signed by
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