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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

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REVIEW PETITION NO.3 OF 2024

IN

CIVIL REVISION APPLICATION NO.13 OF 2010

Milan B Shah

...Petitioner

V/s.

Swami Kashikanandji Guru

Naringhji Maharaj

...Respondent

Ms.Tanaya Patankar i/b Mr.Rahul Shivgavkar for the Petitioner.

Mr.Amarjeet Singh Girse with Mr.Abhijeet Khade i/b Mr.Onkar Wable for the Respondent.

CORAM : RAJESH S. PATIL, J.

DATE : 2ND FEBRUARY, 2024.

P.C. :-

1. This Review Petition filed by the Original Applicant challenges an order dated 14 September 2023 passed in Interim Application No.3761 of 2023.

2. Interim Application No.3761 of 2023 was filed by the Original Applicant seeking permission to bring on record the

proposed legal heirs of the deceased Original Applicant Mahendra Kantilal Shah. Since there was a delay in filing the application, the prayer for setting aside of abatement was also sought. Interim Application was filed in Civil Revision Application, which was already 'Admitted'.

3. By an order dated 14 September 2023, passed in Interim Application No.3761 of 2023, the said application was dismissed. Consequently the Civil Revision Application No.13 of 2010 was disposed of.

4. Ms.Patankar appearing for the Applicant submits that the said order dated 14 September 2023 could not have been passed since the Interim Application No.3761 of 2023 was filed for bringing the legal heirs on record as per the provisions of the Code of Civil Procedure. She further submits that Civil Revision Application filed in this Court, was filed under Section 115 of the Code of Civil Procedure. The Interim Application was filed in Civil Revision Application. She further submits therefore there is error apparent on face of the records.

5. Mr.Girse appearing for the Respondent is not able to make

submission in response on this Interim Application. Hence two weeks' time is granted to the Respondent. In the meantime, there will be interim relief in terms of prayer clauses (c) and (d) till further orders.

6. Prayer clauses (c) and (d) of the Review Petition read as under :-

“(c) That Pending the hearing and final disposal of the present Review Petition, this Hon’ble Court be pleased to stay the effect, operation, execution and /or implementation of the Impugned Judgment and Order dated 14 September 2023 passed by this Hon’ble Court (Coram : His Lordship Vinay Joshi, J.) (Exhibit - A to the present Review Petition) in Interim Application No.3761 of 2023 in Civil Revision Application No.13 of 2010.

d) That pending the hearing and final disposal of the present Review Petition, this Hon’ble Court be pleased to pass an appropriate Order and direction restraining the Respondents, either themselves or through their agents / attorneys / servants from taking possession of the suit premises by executing the judgments impugned in the Civil Revision Application.”

7. Place the matter on board on 16 February 2024.

(RAJESH S. PATIL, J.)