

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO. 127 OF 2024
IN
WRIT PETITION NO. 2526 OF 2023

Kishore Tulshiram Mantri

Petitioner

.. (Orig. Petitioner)

Versus

Dilip Janak Mantri and Ors.

Respondents

.. (Orig. Respondents)

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- Mr. Rameshwar Totala a/w. Mr. Rishabh Tiwari and Mr. Vishal Tambat, Advocates for Petitioner.
 - Ms. Seema Sarnaik, Advocate i/by Mr. Anuj Tiwari, Advocate for Respondents.
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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 23, 2024.

P.C.:

1. Heard Mr. Totala, learned Advocate for Petitioner and Ms. Sarnaik, learned Advocate for Respondents.

2. Mr. Totala, learned Advocate for Review Petitioner seeks review of the judgment and order dated 01.07.2024 passed by this Court while disposing of Writ Petition No.2526 of 2023 primarily on the ground that the said judgment is fraught with errors apparent on the face of record and for other sufficient reasons.

3. Mr. Totala while drawing my attention to the impugned judgment in respect of which Review Petition has been filed would

make three specific submissions namely; that this Court has not considered the provisions of law as enumerated in ground No.1(A) of the Review Petition. In his usual fairness he would however submit that the provisions of law have been considered by the Court but have not been dealt with adequately. Next he would submit that as held by this Court in paragraph No.7.6 of the judgment passed by this Court, findings to the effect of the Supreme Court judgments cited by the Petitioner have been referred to therein but have not been adequately dealt with even though the same have been considered by the Court. Finally he would submit that this Court has not considered the case of Review Petitioner on merits that the Final Decree Application was infact pending and has treated the said proceeding as execution proceedings which is an incorrect proposition of law resultantly arriving at an erroneous finding. This third submission is an issue on merits which has been already been decided and hence it cannot be agitated as a ground in review.

4. In support of the aforesaid propositions, Mr. Totala has referred to a compilation of 15 judgments out of which he has cited 8 judgments across the bar. He has argued the present Review for 35 minutes. Sum and substance of all judgments cited is that if there is an error apparent on the face of record then Court needs to correct the same and therefore in his submissions on the aforementioned proposition, the impugned judgment deserves to be reviewed by the

Court. It is seen that the judgments which have been cited by Mr. Totala are under various statutes namely; Income Tax Act, FERA Act, Rent Control Act, Transfer of Property Act etc. I need not labour and go into the said decisions individually on facts as it is irrelevant for deciding the present Review Petition. His principal submission is that there is an error apparent on the face of record and the conclusion in the judgment is therefore incorrect. While doing so, he has infact attempted to re-agitate and re-argue the issues on merits, which can only be the subject of an “Appeal” and not a “Review”. Finally, he would make an additional submission with respect to the power of the Court exercised under Article 227 of the Constitution of India in giving certain directions to the Review Petitioner. This is a consequential direction and undoubtedly cannot be an issue for consideration in review.

5. Sum and substance of the submissions of Mr. Totala are on pure merits of the matter camouflaged as errors apparent on the face of record. This cannot be permitted by the Court once again on merits, once decided. I do not agree with his submissions as none of the grounds enumerated by him or even argued by him persuade me to consider reviewing the judgment dated 01.07.2024. Rather I do not find any error apparent on the face of record.

6. Ms. Sarnaik, learned Senior Advocate appearing for the Respondents would draw my attention to Exhibit “B” which is the decision of the Supreme Court dated 30.07.2024 passed in SLP No.15763 of 2024 to challenge the judgment dated 01.07.2024 passed by this Court. She would submit that challenge to the said judgment failed before the Supreme Court.

7. Be that as it may, before me each and every submission argued by Mr. Totala in the present Review Petition is only on merits and hence I do not find any reason to interfere with the judgment in this Review Petition. There is no virtually no error apparent on the face of record as can be seen by me.

8. Review Petition therefore stands dismissed.

[MILIND N. JADHAV, J.]

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