



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**REVIEW APPLICATION NO. 264 PF 2-24
IN
CIVIL REVISION APPLICATION NO. 18 OF 2021**

Uttam Ananda Lavhale .. Applicant

Versus

Ashok Natthu Nerkar and another .. Respondents

Shri Ajit M. Gholap, Advocate for the Applicant.

Shri Niranjana V. Dhake, Advocate h/f Shri G. V. Wani, Advocate
for the Respondent Nos. 1 and 2.

CORAM : SHAILESH P. BRAHME, J.

DATE : 05TH DECEMBER, 2025.

FINAL ORDER :

. Heard both sides.

2. Applicant seeks to recall order dated 30.11.2022 confirming rejection of application preferred under Order VII Rule 11 of the Code of Civil Procedure (for the sake of brevity and convenience hereinafter referred as to the 'C. P. C.') in R.C.S. No. 129 of 2017.

3. Learned counsel for the applicant adverts my attention to para Nos. 7 and 8 of the judgment under review to point out the error apparent on the face of record. He would submit that the rights of the parties are emanating from partnership and the

contract which is candidly disclosed in the plaint. The findings are perverse and present case is squarely covered by Section 69 of the Indian Partnership Act (for the sake of brevity and convenience hereinafter referred as to the 'Act'). He has adverted my attention to the plaint and it is submitted that the parties were the partners and there was agreement executed on 08.08.2016. Its a case of cleaver drafting and attempt to circumvent Sec. 69 of the Act.

4. Learned counsel for the respondents supports judgment under review. It is submitted that although there was reference of some agreement between the parties, there is no concluded contract and the transaction is personal in nature.

5. I have carefully gone through para Nos. 7 and 8 of the judgment under review as well as plaint. Plaint refers to agreement dated 08.08.2016 and the nature of agreement between the parties for developing the suit property. It is unsafe to infer that there was any concluded contract or partnership agreement between the parties. A full fledged trial is required to examine that aspect of the matter.

6. Neither the suit is filed on behalf of the partnership firm, nor as a partner of the partnership firm. The observations in para Nos. 7 and 8 of the judgment under review cannot be termed as mistake apparent on the face of record. In any case, it would be open for the parties to agitate the bar U/Sec. 69 of the

Act after full fledged trial before the Trial Court.

7. No case is made out for review of the judgment. The review application is rejected.

[SHAILESH P. BRAHME J.]

bsb/Dec. 25