



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

REVIEW APPLICATION NO. 35 of 2025

Sumanbai @ Rukhmanbai Kachru Jadhav
and another
through their GPA Holder
Virendra Surendra Bankar
Versus
Rauf Baig s/o. Ismail Baig and others.

...
Ms. H.N. Jadhav, Advocate for applicants
Mr. S.V. Natu, Advocate for respondent.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 28TH MARCH, 2025.

P.C. :-

1. Heard Ms. Jadhav, learned advocate for the applicants. The applicants seek review of the order dated 21.11.2024 passed by this Court in Appeal from Order No. 2 of 2024, by which, the order dated 23.10.2023 passed by District Judge-4, Aurangabad in R.C.A. No. 53 of 2022 has been quashed and set aside and matter is remanded back for decision on merit.

2. Learned advocate appearing for the applicants submits that there are many typographical errors in the order. In para. No.2 of the order, substantial questions of law are framed and in first question of law, the date of order passed in R.C.S. No. 37 of 2013, is wrongly recorded as 25.6.2017, instead of 25.6.2015. She would further submit that in the title clause of the order, name of respondent No.5 Retan Kacharu Jadhav is missing. She would further submit that in operative part of the order, the date of order of District Judge, passed in R.C.A. No.53 of 2022 is wrongly mentioned as 25.6.2015, instead of 23.10.2023.

3. Apart from aforesaid typographical errors, Ms. Jadhav submits that when the appellate court exercised discretion while remanding the matter back vide order dated 23.10.2023, passed in R.C.A. No. 53 of 2022, this Court could not have interfered. According to her, unless plaintiffs' witnesses are cross-examined, there cannot be fair decision in the lis. Matter pertains to valuable immovable properties. In this background, this court could not have directed appellate court to decide the appeal on merit, by setting aside order of remand of suit to the trial court.

4. Apparently, there is merit in contention of the learned advocate for applicant, that there are typographical errors and those require to be corrected. Therefore, there is no impediment in allowing the correction of inadvertent typographical errors and upload the corrected order accordingly. However, typographical errors cannot be a ground for review.

5. So far as other contentions are concerned, those are submissions on merit, thereby raising challenge to the order under review. Learned advocate appearing for applicant could not point out the error apparent on face of record or any other ground, which will necessitate exercise of jurisdiction of review under Order 47 read with Section 114 of Civil Procedure Code.

6. The Honourable Supreme Court of India in the matter of *Perry Kansagra vs. Smriti Madan Kansagra reported in(2019) 20 SCC 753*, has observed as under :-

“..... While exercising the review jurisdiction in an application under Order 47 Rule 1 read with Section 114 of

CPC, the Review Court does not sit in appeal over its own order. It is observed that a rehearing of the matter is impermissible in law. It is further observed that review is not appeal in disguise. It is observed that power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. It is further observed that it is wholly unjustified and exhibits a tendency to rewrite a judgment by which the controversy has been finally decided. After considering catena of decisions on exercise of review powers and principles relating to exercise of review jurisdiction under Order 47 Rule 1 CPC, this Court had summed upon as under :-

“(i) Review proceedings are not by way of appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC;

(ii) Power of review may be exercised when some mistake or error apparent on the face of record is found. But, error on the face of record must be such an error which must strike one or more looking at the record and would not require any long-drawn process of reasoning on the points where there may conceivably be two opinions;

(iii) Power of review may not be exercised on the ground that the decision was erroneous on merits;

(iv) Power of review can also be exercised for any sufficient reason which is wide enough to include a misconception of fact or law by a court or even an advocate;

*(v) An application for review may be necessitated by way of invoking the doctrine **actus curiae neminem gravabit.**”*

7. If the applicants are aggrieved and wish to raise challenge on merit to the order under review, the remedies are elsewhere. Considering the grounds raised in this application, no admissible ground for review is made out. In the result, review application stands dismissed. However,

the typographical errors as indicated above, be corrected and corrected copy be uploaded.

8. Review application is disposed of accordingly.

[S.G. CHAPALGAONKAR, J]

grt/-