



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
REVIEW APPLICATION (CIVIL) NO. 254 OF 2023
IN SA/139/2022**

SAMEER PANDURANG PHULE

VERSUS

NEHA SAMEER PHULE

...
Mr. S. S. Kazi, Advocate for Applicant.

Mr. A. T. Jadhavar, Advocate for Respondent.

...
**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 05th AUGUST, 2025.**

P.C.:-

1. Leave to amend ground no.1.
2. The applicant seeks review of order dated 30.06.2023 passed by this Court in Second Appeal No.139/2022 and seeks restoration of Second Appeal to its original position.
3. Mr. Kazi, learned Advocate appearing for applicant submits that respondent-Neha Smeer Phule had recorded her evidence before Family Court in HMP No.A/97/2017 and during her cross-examination she admitted that respondent's father had transferred 22 gunthas land Gut No.259/3 jointly on the name of her husband-Sameer Pandurang Phule and herself. According to Mr. Kazi, if said admission is taken into consideration, case of plaintiff as pleaded in suit could not have been accepted by the Court.
4. It can be observed that this Court dismissed Second Appeal thereby confirming judgment and decree dated 12.11.2021 passed

by Ad-hoc District Judge-2, Aurangabad in Regular Civil Appeal No.189/2019, thereby upholding judgment and decree dated 05.04.2019 passed by Civil Judge Junior Division, Aurangabad in Regular Civil Suit No.514/2016. Apparently, review petitioner failed to appear in suit and consequently, on 20.03.2018 *ex-parte* order was passed against him.

5. The applicant was aware about statement recorded by respondent-wife in HMP No.A/97/2017 while her evidence was recorded on 14.08.2018. If he wanted to rely upon such admission, it was for him to appear in suit and plead about such admission and confront such admission to plaintiff during course of evidence in suit. None of the aforesaid possible ways were adopted by applicant. When decree was passed against him in suit, an Appeal was filed before learned District Judge. Again applicant had an opportunity to bring aforesaid material before Appellate Court in Regular Civil Appeal No.189/2019. However, he failed to do so. Even, when Second Appeal was heard, aforesaid facts were not brought to the notice of Court.

6. It is trite that, admission of particular facts may be a good evidence, however, there is set procedure to prove such admission. Merely because stray admission is made by respondent in some other proceeding between same parties, the same cannot be used as good ground for review in Second Appeal which is disposed by well

reasoned order passed by the Court. Hence, no ground is made out as required under Section 114 or Order 47 Rule 1 of Code of Civil Procedure to entertain Review Application. Hence, it is dismissed.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/August-2025