



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

**REVIEW APPLICATION NO. 285 OF 2025
IN
SECOND APPEAL NO. 327 OF 2011**

Sanjay Damodhar Thorat and others .. Applicants

Versus

Anjanabai Rangnath Thorat
Since deceased through his L.Rs.
Kashinath Rangnath Thorat .. Respondent

Shri K. F. Shingare, Advocate for the Applicants.
Shri N. D. Sonwane, Advocate for the Respondent Nos. 1-A, 1-C,
1-D, 1-E and 1-G.

**CORAM : SHAILESH P. BRAHME, J.
DATE : 17TH DECEMBER, 2025.**

FINAL ORDER :

. Heard both sides.

2. Applicants are seeking review of the judgment dated 17.10.2025 passed by this Court dismissing the second appeal.

3. Learned counsel for the applicants submits that mistake apparent on the face of record is the finding recorded by this Court that fresh suit filed for enforcement of his right arising out of compromise decree by the respondents was maintainable. It is submitted that R.C.S. No. 22 of 2006 was not tenable in view of the judgment of the Supreme Court in the matter of Navratan Lal

Sharma Vs. Radha Mohan Sharma and others reported in *[2024] 12 S.C.R. 453*. Learned counsel has adverted my attention to plaint and the prayers of R.C.S. No. 22 of 2006, provisions of order XXIII Rule 3A of the Code of Civil Procedure and the findings recorded in para No. 19 of the judgment under review.

4. Per contra, learned counsel Mr. Sonwane for the respondents supports impugned judgment. He would submit that this Court has elaborately dealt with the self same submissions and the findings are recorded in para Nos. 16 to 20. The findings recorded cannot be said to be any mistake apparent on the face of record. It is lastly stated that no ground is made out which is within purview of Order 47 read with Sec. 114 of the C. P. C.

5. Applicants are original defendants, who suffered decree of injunction and possession. Being aggrieved, they had preferred appeal and appeal was dismissed. Concurrent findings of facts were challenged in second appeal. By judgment under review second appeal was dismissed. Learned counsel for the appellants – applicants advanced self same submissions in pursuance of substantial question of law which are quoted in para No. 11 of the judgment under review. In para No. 12 a crucial question for adjudication has been quoted. After considering elaborate submissions and the judgment cited at bar it is recorded that suit filed by the respondent is maintainable. The unsuccessful applicants have approached this Court and re-agitated the

grievance on self same grounds which are already dealt by this Court. It would not fall within purview of order 47 Rule 11 of the C. P. C. I am fortified by the law laid down by the Supreme Court in the matter of Malleeswari Vs. K. Suguna and another reported in *2025 SCC OnLine SC 1927*.

6. The judgment under review shows that the pleadings of the parties in R.C.S. No. 22 of 2006 as well as previously compromised suit R.C.S. No. 283 of 1996 have been dealt with elaborately. Judgments cited at the bar are re also considered by this Court in arriving at conclusion that such a suit filed by the respondent is maintainable. I do not find that any case is made out to cause interference under review jurisdiction.

7. Peculiar facts of the case have been recorded in para No. 16 that in the present suit respondent did not challenge the compromise decree or its terms on the ground of fraud, misrepresentation or suppression of facts. In fact, the tenor of the respondent is that she is seeking implementation of the compromise decree. These facts are distinguishable from the facts of the cited judgment in the matter of Navratan Lal Sharma Vs. Radha Mohan Sharma and others (supra) rendered by the Hon'ble Apex Court.

8. In the matter before Apex Court the compromise was arrived at before High Court in the first appeal. It was sought to be recalled on the ground that there was default on the part of

one of the parties as well as on the ground of fraud. This is evident from para No. 13 of the judgment of the Supreme Court, wherein it is recorded that appellant had alleged fraud committed by the respondent in the recall application preferred before High Court. Thereafter High Court rejected the application holding that no liberty was given while recording compromise to restore the appeal. Such are not the facts in the case at hand. In the present case respondent has not challenged the terms of compromise on the ground of fraud and misrepresentation. Therefore, in my respectful view the judgment of Navratan Lal Sharma Vs. Radha Mohan Sharma and others (supra) would not enure to the benefit of the applicants.

9. For the reasons stated above, I find that no ground is made out to exercise the review jurisdiction. Review application is rejected.

[SHAILESH P. BRAHME J.]

bsb/Dec. 25