



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION NO.1 OF 2025
IN
SECOND APPEAL NO.129 OF 2024

Ashok Sudharshan Giri & Ors.

...Applicants

Versus

Rajeshwar Shamrao Shinde & Anr.

...Respondents

WITH
CIVIL APPLICATION NO.163 OF 2025
IN
REVIEW APPLICATION NO.1 OF 2025

Adv. N. P. Patil Jamalpurkar for Applicants.

Adv. Mr. G. V. Mohekar for Respondent Nos.1 & 2 in SA.

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 8th JANUARY 2025

PC.:-

REVIEW APPLICATION NO.1 OF 2025:-

1. Heard Mr. N. P. Patil-Jamalpurkar, learned Advocate appearing for Applicants.

2. Applicants seeks review of judgment and order dated 21st November 2024 passed by this Court in Second Appeal No.129 of 2024.

3. Mr. Patil submits that while hearing second appeal, this Court had not framed substantial questions of law which is mandatory in terms of Section 100 of the Code of Civil Procedure, 1908. In support of his submissions, he relies upon observations of Supreme Court in case of *Nek Pal & Ors. Vs. Nagar Palika Parishad & Ors.* in Civil Appeal Nos.8038 of 2024 and 8039 of 2024 and judgment in case of *Rashmikant Vijay Chandra & Ors. Vs. Baijnath Choubey & Company* in SLP (C) No.24805 of 2023.

4. Mr. Patil would further submit that suit regarding validity of sale deed dated 10th June 1998 is subject matter of another pending suit. The Plaintiffs' title flow from purchaser under that sale deed. In wake of such pendency, final conclusion as regards to the ownership of Plaintiffs could not have been drawn.

5. Apparently, this Court dismissed second appeal observing that no substantial questions of law arises for consideration in appeal and affirmed the decree as passed by District Court. It is, therefore, difficult to countenance with submission of Mr. Patil that even for summary dismissal of second appeal, substantial questions of law requires to be framed. The preposition of law espoused in judgments (supra) relied upon by him would not support his contention.

6. Sofar as second ground is concerned, that may not constitute good ground for review of the order passed in second appeal. This Court noted pendency of dispute in Regular Civil Suit No.575 of 2012 and arrived at conclusion that any decree passed in that suit would govern rights of the parties in case Appellants ultimately succeed they have remedy to execute such decree. Therefore, no prejudice is caused to Appellants/Review Petitioners. Ultimately, if Applicants are aggrieved by decision rendered by this Court, the review would not be appropriate remedy. The Applicants are free to take up available remedy under law.

7. In that view of the matter, there is no substance in review, review application stands dismissed.

(S. G. CHAPALGAONKAR, J.)