

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**Review Petition No.30 of 2025
In
Writ Petition No. 18398 of 2024**

Muzdmmil Shafi Shaikh ... Review Petitioner
V/s.
Sanjeev Preetam Chhugani and others ... Respondents.

Mr. Ajay Bhise a/w. Ms. Deepali Kedar i/b. Rohan Utagikar in RPW 30/2025	Advocate for the Petitioner.
Mr. Sujit Lahoti a/w. Haaris Koradia i/b Sujit Lahoti & Associates	Advocate for Respondent No.1 - Original Petitioner.

CORAM : S.M. MODAK, JJ.

**DATE : 5th March 2025.
(IN CHAMBER)**

P.C. :

Heard learned Advocate for the review petitioner and learned Advocate for Respondent No.1/Decree Holder.

2. Present review petition is filed basically on two grounds:

- (i) not disclosing the correct status of the proceedings.
- (ii) making incorrect submission about affidavit of service.

These submissions were made when this Court has heard the writ petition No.18398/2024 and decided on 17th December 2024.

3. The Petitioner therein/Respondent No.1 is a decree holder and

Digitally
signed by
LATA
SUNIL
PANJWANI
Date:
2025.03.07
16:39:31
+0530

LATA
SUNIL
PANJWANI

he has sought a limited relief. It is in respect of issuing directions to the Executing Court to decide the pending applications in the time bound manner.

4. Considering the reliefs sought therein, this Court has not issued notice to the Respondents therein. Instead this Court has issued certain directions to the Executing Court. The Executing Court was directed to decide the pending applications within a time bound manner. It is submitted that the Executing Court after hearing the contesting parties have decided those applications. There is also submission made on behalf of the decree holder that possession warrant is issued and executed. The present Petitioner is having serious grievance about the procedure followed and the execution of the warrant.

5. In addition to the prayers made in the review application, the learned Advocate for the Petitioner has shown to me certain photographs of the Boards displayed outside the suit premises. According to him none of the Courts have passed certain orders. On the basis of the above events, there is a oral prayer for putting the Court Commissioner in possession of those premises till the time SLP is decided by the Hon'ble Supreme Court. This prayer is strongly opposed for the reason it is not prayed in the review petition and it will be outside the scope of review petition.

6. Learned Advocate for the Petitioner has invited my attention to the following facts:

- (i) There is a substantive first appeal filed by the review petitioner against the judgment and decree passed by the trial Court. It is undisputed fact that the Division Bench of this Court has granted stay subject to deposit of the amount. Copy of the order dated 24th January 2023 is annexed to the affidavit-in-reply filed to this review petition. It is on Page-46. Learned Advocate for Respondent No.1 invited my attention to the endorsement made on Page No.55 which says that amount is not deposited and that is why first appeal and civil application stand dismissed.
- (ii) It is a matter of record that present Petitioner has filed Special Leave Petition before the Hon'ble Supreme Court against the order of conditional stay granted by the Division Bench. According to learned Advocate for Respondent No.1 the Special Leave Petition was dismissed for want of removal of objections and common order dated 17th July 2023 passed therein is tendered on behalf of Respondent No.1. It is a matter of record that present Petitioner has filed a restoration application of that Special Leave Petition and yet it is not decided.

7. Learned Advocate for the Petitioner submitted that all these facts were not brought to the notice of this Court when the writ

petition was disposed of. As against this my attention is invited to the averments in Para No.14 and 21 of the writ petition. It is true those facts were pleaded in those paragraphs. When this Court has disposed of the writ petition, there is a submission recorded that the litigation has attained the finality though the proceedings were not referred in the said order. If above are the facts, I do not think that Respondent No.1 has misled the Court while obtaining that order. If Respondent No.1 has not pleaded these facts, the question could have been different, however, it has not happened.

8. Second ground of review is about improper service of an affidavit of the writ petition. According to learned Advocate for the Petitioner, service of the writ petition on an Advocate appearing before the Executing Court cannot be said to be a proper service. As against this, the learned Advocate for Respondent No.1 has invited my attention to affidavit of service filed in the writ petition. Respondent No.1 pleaded in Paragraph No.4 as to how service was offered on the present Petitioner. It was by way of speed post and it has returned back as the door was locked. The contention is the present Petitioner is not residing on the said address. So what I feel is when Respondent No.1 made a submission about the service of writ petition, he has considered offering of service by speed post. If this is so, it also cannot be said that wrong submission was made when writ petition was disposed of by this Court.

9. In view of the above I do not think that ground for review is

made out. The request for passing direction to put the premises in possession of Court Commissioner cannot be accepted because this will be outside the purview of review application. If the Petitioner wants, he can take appropriate steps before the appropriate forum. Review Petition stands dismissed and disposed of accordingly.

(S.M. MODAK, J.)