IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO. 1 OF 2025

IN

CIVIL REVISION APPLICATION NO. 111 OF 2019

The State Trading Corporation of India ****….Petitioner** **(Orig. Applicant)***

: Versus :

Neelam Shamsunder Choudhary ***….Respondent*** ***(Orig. Respondent)***

Mr. Devang Vyas, Senior Advocate *i/by. Mr. D.G. Dhanure, for the Petitioner.*

Mr. Ravindra Singh Sehgal, *through POA for the Respondent.*

CORAM : SANDEEP V. MARNE, J.

Dated : 12 March 2025.

P.C. :

1) This petition is filed seeking review of the judgment and order dated 16 October 2024.

2) I have heard Mr. Vyas, the learned Senior Advocate appearing for the Review Petitioner and the Respondent appearing in person.

3) It appears that order dated 16 October 2024 was unsuccessfully challenged before the Hon'ble Supreme Court by filing Special Leave Petition No. 31033/2024 which came to be dismissed by order dated 15 January 2025. Considering the settled position of law that mere dismissal of the Special Leave Petition does not bar jurisdiction of the High Court to review its order, I proceed to consider the present Review Petition.

4) The sheet anchor of submissions of Mr. Vyas is that after delivery of the judgment dated 16 October 2024, the Review Petitioner was able to lay hands on copies of various agreements executed between itself and the State of Maharashtra relating to procurement of various items such as Palm Oil, Tur Dal etc. He would submit that copies of the said Agreements would indicate the extent of profits that could be earned by the Petitioner during the relevant time of enquiry into *mesne profits*. He has taken me through the definition of the term '*mesne profits*' in Clause-12 of Section 2 of the Civil Procedure Code, 1908 in support of his contention that *mesne profits* cannot exceed either the actual profits or the profits that a person can derive with ordinary diligence on account of wrongful possession of the property. In my view, apart from the fact that the said Agreements were not produced before the Small Causes Court, its Appellate Bench and before this Court while deciding the Civil Revision Application thereby making it impermissible to rely upon the same directly in the Review Petition, the alleged profits earned by the Review Petitioner through various transactions arising out of the said Agreements are absolutely irrelevant for the purpose of deciding the quantum of *mesne profits.* One of the accepted norm for determining the quantum of *mesne profits* is the rental return receivable by the landlord which is denied to him on account of wrongful occupation of the premises by a defendant in the suit. This Court has conducted an enquiry into the possible rental returns in respect of the suit premises while ascertaining the quantum of *mesne profits* payable by the Review Petitioner. For conduct of that enquiry, copies of Agreements which are now sought to be placed alongwith the

Review Petition for the purpose of demonstrating possible profits earned by the Review Petitioner through various transactions, become wholly irrelevant. In my view, therefore apart from impermissibility to rely upon the said documents directly in the Review Petition, the said documents are otherwise irrelevant for the purpose of conduct of enquiry into *mesne profits*.

5) I therefore do not find any error apparent on the face of record or presence of any other permissible ground in the present case for undertaking the exercise of review of the judgment and order dated 16 October 2024. Mr. Vyas would urge that a clarification be issued that the judgment is rendered by considering the facts and circumstances in Civil Revision Application No.111/2019. Obviously, every judgment is rendered in the facts of the case in which it is rendered and no clarification in that sense would be necessary. No case is made out for review of judgment and order dated 16 October 2024. Review Petition is accordingly **rejected.**

[SANDEEP V. MARNE, J.]

NEETA SHAILESH SAWANT

Digitally signed by NEETA SHAILESH SAWANT
Date: 2025.03.13 10:32:38 +0530