

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL REVIEW APPLICATION NO. 142 OF 2025

IN SECOND APPEAL NO. 41 OF 2024

Pushpatai Sampatlal Ostwal

(Died) Through LRs

1.A. Sampatlal Mitthulal Ostwal

1.B. Vaishali w/o Sandip Duggad

1.C. Anand Sampatlal Ostwal

1.D. Rupesh Sampatlal Ostal

Petitioners

Versus

Sudhir Ramchandrarao Hivre

Respondent

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Mr. Milind Patil, Advocate for the petitioners.

Mr. Aditya N. Sikchi, i/b Mr. Rahul Kasat, Advocates for the respondent.

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CORAM : SANDIPKUMAR C. MORE, J.

Reserved on : 28.01.2026

Pronounced on : 02.04.2026

Order :

1. The present petitioners, who are the legal representatives of original defendant Pushpa Sampatlal Ostwal, have sought review of the judgment and order dated 23.04.2024 passed in Second Appeal No.41 of 2024 by this Court.

2. Heard rival submissions.

3. The petitioners have sought review of the aforesaid judgment and order mainly on the ground that the original defendant had already got measured the suit plot on 11.03.2008 as per the terms and conditions of the contract in dispute and the said contract was also terminated under notice dated 03.05.2008 by the original defendant. Thus, the learned counsel for the petitioners submits that these aspects were not considered by this Court while dismissing the second appeal.

4. However, on going through the evidence on record and the judgment under review, it appears that the agreement of sale under which the specific performance was granted in favour of the respondent/plaintiff regarding suit plot, was dated 18.12.2007. Further, it appears that the respondent / plaintiff was to get the sale deed executed on or before 20.02.2008 by paying the remaining balance of consideration. However, there was rider in the agreement of sale that on or before 20.02.2008 the original defendant was to measure the land to ascertain the exact price of the suit plot. But the original defendant i.e. the predecessor of the present petitioners failed to get measured the suit plot till 20.02.2008 and it was got measured much after that i.e. on 11.03.2008.

As such, the original defendant was actually at fault. Further, though under notice dated 03.05.2008 the original defendant had terminated agreement of sale and therefore suit for specific performance was filed, but this aspect is clearly dealt with by this Court in Para Nos.8 and 9 of the judgment under review. It was the case of the appellant that after such termination under notice dated 03.05.2008, the original agreement of sale was not in existence, and therefore, there was error committed by both the Courts below of granting specific performance. However, it has been already observed by this Court in the judgment under review that the observation of the Hon'ble Apex court in the case of ***I.S. Sikandar vs K. Subramani and others***, relied by the appellant, was not applicable due to different facts.

5. Thus, considering the scope of review, the aforesaid aspects cannot be re-agitated again and again. As such, the review application stands dismissed.

(SANDIPKUMAR C. MORE, J.)