



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

**REVIEW APPLICATION (CIVIL) NO. 153 OF 2025
IN SA/409/1999**

SHAIKH BAPUJI SK.AHMED(DECD)LRS SK.SIKANDAR AND
ORS
VERSUS
MALANBI SK.BUDHAN(DIED)LRS SHAIKH ABDUL RAHIM
SHAIKH BUDHAN

...
Mr. Rajendra Deshmukh, Senior Advocate i/by Mr. Shriram Vinod Deshmukh and Ms. Ashwini S. Deshmukh, Advocate for Applicants.

Mr. K. N. Shermale, Advocate for Respondent No.2 in SA.

...
**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 17th FEBRUARY, 2026.**

P.C.:-

1. The Review Application is filed seeking review of order dated 25.04.2025 passed by this Court in Second Appeal No.409/1999, whereby Second Appeal of applicants has been dismissed.

2. Mr. Rajendra Deshmukh, learned Senior Advocate appearing for applicants would submit that General Power of Attorney holder i.e. Shaikh Karbhari Shaikh Noor of respondent no.2 died on 18.12.2003 during pendency of Second Appeal. The respondent no.2 had appeared through GPA. Therefore, order passed by this Court needs to be reviewed.

3. He would further submit that other aspect of matter that Court Commissioner i.e. Mr. R. D. Jain, who submitted his report about existence of trees on bandh between lands of plaintiffs and

defendants was person attached to Advocate appearing for respondents and, therefore, his report was biased.

4. It can be observed that appellants are original defendants in suit instituted for decree of possession of encroached portion out of agriculture land Gut No.549. The Trial Court as well as Appellate Court decreed suit. In Second Appeal filed before this Court, contention was raised that measurement was carried by TILR without notice to respondents. This Court has dealt with issue and noted that spot panchanama, which is conducted at the time of measurement by TILR clearly shows presence of plaintiffs, defendants and other witnesses at the time of measurement.

5. The another contention that Court Commissioner Mr. R. D. Jain was biased, as he was attached to Advocate appearing for respondents, Court finds that such contention was never raised before Trial Court or First Appellate Court and sought to be advanced in Second Appeal without supporting material, hence cannot be considered. Further there is report of TILR on this aspect, which is basis for final conclusion. The other grounds of review are practical grounds based on facts, which are already considered and decided by this Court as well as lower Court. So far as death power of attorney of respondent no.2, it was not brought on record. The respondent no.2 has no objection to judgment, petitioners/appellants cannot raise such ground for review. He has

not suffered prejudice by death of power of attorney of respondent no.2.

6. In that view of matter, no ground is made out to entertain present Review Application. Hence, Review Application stands rejected.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/February-2026