

MHKO010002952023



Reg.Civil Appeal No.12/2023

Order below Exh.37

The appellants have filed the instant application by invoking provisions contained in Section 151 read with 94 of the Code of Civil Procedure.

02. The appellants have made prayer that, common order passed below Exhs.17 and 19 on 4-3-2024 and order dated 21-05-2015, passed below Exh.27 be recalled. Exh.19 be rejected with heavy costs and consequential order be passed below Exh.27.

03. Exh.17 was filed by the appellants and prayer was made to delete names of respondents 2A and 2C (original plaintiffs 1A and 1C) in the appeal. This application was replied by the respondents vide say at Exh.18. According to the respondents, the application filed by the appellants is against the law. It is duty of the appellants to bring on record legal heirs of deceased respondents 2A and 2C. When the suit was pending, respondents 2A, 2B and 2C (plaintiff 1A, 1B and 1C) were on record. Corona pandemic was going on and during that period respondents 2A and 2C died. Their legal heirs were not brought on record inadvertently. The appellants i.e. original defendants did not object for the same. In execution petition steps have been taken to bring legal heirs of 2A and 2C of respondents on record.

04. On behalf of respondents 2A and 2C application at

Exh.19 was filed and prayer was made to delete their names from the array of the respondents and their legal heirs be brought on record.

05. Applications 17 and 19 were heard. Application at Exh.17 was rejected and application at Exh.19 was allowed. The appellants were directed to implead legal heirs of Kumar Ganpati Kumbhar i.e. respondent 2A on record.

06. Instead of complying with the order of the Court, the appellants filed application at Exh.27 and prayed for review of the order passed below Exhs.17 and 19. Exh.27 was heard and the review application came to be rejected.

07. By way of instant application, the appellants want to review the order passed below Exh.27 and prayed that order passed below Exh.27 be recalled.

08. During the course of arguments number of citations are pressed into service on behalf of both the sides. Instead of referring them, this Court has decided the instant application on the legal point i.e. maintainability of the application.

09. As per Order 47 Rule 9 of the Code of Civil Procedure no application to review an order made on an application for a review or a decree or order passed or made on a review shall be entertained. It appears that under the guise of section 151 read with 94 of the Code of Civil Procedure, the appellants want to review an order made on an application for review (Exh.27). In view of specific legal bar contained in Rule 9

of Order 47, the instant application is not maintainable. In the result, following order is passed -

Order

Application stands rejected with compensatory cost of Rs.5,000/-, payable to the State of Maharashtra within 15 days from today.

Date : 21-04-2026

(D.V.Kashyap)
District Judge No.3, Kolhapur