

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).7849-7850/2005
(From the judgement and order dated 29/10/2004 in SA No. 409/1989 & SA
No.
410/1989 & RA No. 1718/2004 & RA No. 1721/2004 of The HIGH COURT OF
BOMBAY
AT AURANGABAD BENCH)

PANDIT DHANA MALI

Petitioner(s)

VERSUS

BHIMABAI (D) TH. LRS.

Respondent(s)

(With prayer for interim relief and office report)

Date: 26/04/2005 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

HON'BLE MR. JUSTICE P.K. BALASUBRAMANYAN

For Petitioner(s)

Mr. Uday B. Dube, Adv.

Mr. Kuldip Singh, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following

O R D E R

An application seeking review of the judgment passed by the High Court in second appeal has been dismissed on the ground 'not maintainable'. The learned single Judge of the High has held that as against a judgment in second appeal "a remedy by way of application of review is entirely misconceived". This proposition seems to have been too widely stated by the learned Judge. We clarify that a judgment in second appeal may also be open to review subject to a ground therefor being available within the meaning of Rule 1 Order XLVII of the Civil Procedure Code.

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So far as the present case is concerned, having heard the learned counsel for the petitioner independent of the view formed by

the High Court, we are satisfied that a case for review of the judgment was not made out.

The special leave petition is dismissed.

(RAJESH DHAM)

COURT MASTER

(VIJAY AGGARWAL)

COURT MASTER