

**IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 103 OF 2015**

SHRI RAMCHANDRA SHANTARAM

NAYAK ... Petitioner

Versus

SMT. SAVITHRIBAI GOVIND

VELGUEMKAR AND ANR. ... Respondents

Mr. Joseph Rodricks, Advocate for the Petitioner.

Coram:- N. M. JAMDAR, J.

Date:- 9th February, 2015

ORAL ORDER:

By this petition, the petitioner challenges the order passed by the Principal District Judge, South Goa, Margao dated 6 January 2015 allowing the amendment to the transfer application made by the respondent no.1.

2. Petitioner has filed execution proceedings in the Court of Civil Judge Senior Division, Margao against the respondent no.1. The petitioner seeks execution of Sale Deed of the respondent no.1 in favour of the petitioner. By order dated 18 August 2011, the Executing Court appointed Superintendent of the Court to execute the Sale Deed. Against the order dated 18 August 2011, respondent no.1 filed an appeal, which was dismissed. Thereafter, the respondent no.1 took out an review application before the District Court which was also dismissed. Thereafter, the Executing Court directed the petitioner-decree holder to submit a fair copy of the amended draft Sale Deed. Again respondent no.1 obstructed the proceedings of the Sale

Deed which application was dismissed by the Executing Court on 19 July 2014. Respondent no.1 again filed an appeal before the District Court which was dismissed on 20 August 2014. Thereafter, respondent no.1 applied for suspension of the order passed in appeal. After that being dismissed the respondent no.1 made an application to transfer the proceedings to another Court. The Executing Court passed an order on 19 July 2014 stating that there is no controversy left in the matter, the executing order is upheld by the District Court and therefore the application was dismissed. Thereafter, the respondent no.1 filed an application for transfer of the matter to another Judge. In this application for transfer respondent no.1 sought amendment bringing on record that the Trial Judge in charge of execution proceedings has been transferred. By the impugned order dated 6 January 2015, the District Court allowed the application for amendment.

3. Mr. J. Rodricks, the learned Counsel for the petitioner submitted that grant of application for amendment is without jurisdiction as the transfer proceedings themselves do not survive. He submitted that the learned District Judge is proceeding to reopen the matter.

4. Though it prima facie appears that there is abuse of process by respondent no.1 by filing successive applications obstructing the execution of decree and that the transfer application may not survive since the learned Judge himself has now been transferred, I am not inclined to interfere in this petition at this stage as final order is yet to be passed by the

District Court. The learned District Court will no doubt pass an order in accordance with law. Writ Petition is disposed of.

N. M. JAMDAR, J.

NH/-