

IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL NO. 30 OF 2015

SMT. HYCINTHA BARRETTO E AMANNA. ... Appellant
Versus
SMT. LILIA REBELLO AND ANR., ... Respondents

Mr. A. D. Bhobe, Advocate for the appellant.

Coram:- C. V. BHADANG, J.

Date:- 7th July, 2015

P.C.

Heard Shri A. D. Bhobe, the learned Counsel for the appellant.

2. It is submitted that the Courts below have not considered the effect of a letter dated 25/11/1998, sent by the PIO Lourenco, the President and which is addressed to the predecessor of the first respondent/ original plaintiff.

3. The learned Counsel has taken me through the observation of the learned First Appellate Court that no objection was raised at the stage when the document was exhibited. Thus, the effect of the letter cannot be ignored.

4. The First Appellate Court in paragraph 21 of the judgment has found that the learned Trial Court had refused to admit the letter exhibit 55, on the ground that the letter was not proved as the author

of the same was not examined. The First Appellate Court has thereafter, went upon considering the evidence of DW1 Hycintha, DW2 Neelesh Laad, who is the Consultant Civil Engineer, in order to find, that the appellant/ defendant no.1 was not in possession of the triangular portion admeasuring about 72 square metres, which is the subject matter of dispute in this case. The First Appellate Court has also found in paragraph 27 of the judgment that the appellant and her witness DW2 Neelesh Laad had clearly admitted that the first respondent/ plaintiff was in possession of the suit land. What would be further significant is that admittedly, there was another suit filed by the first respondent against the appellant concerning a larger piece of land, which includes the triangular portion admeasuring 72 square metres, which is the subject matter of dispute in this case. That suit also was decreed, out of which a Second Appeal No.76/2012 arose and that was dismissed by this Court. Civil Application (Review) No.4/2013 filed by the appellant also met with dismissal on 29/08/2013. If that be so and in view of concurrent findings of fact, I do not find that any substantial question of law arises in the Second Appeal.

5. Consequently, the Second Appeal is hereby dismissed.

C. V. BHADANG, J.

SMA