

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.270 of 2015**

Shri Sadanand Apa Kambli,
Son of Apa Kambli, Major in age,
Married, retired, Indian National,
Residence of Nageshi, Bandora,
Ponda-Goa. .. Petitioner

Versus

1. Village Panchayat Bandora,
Through its Secretary,
Bandora, Ponda-Goa.
2. Shri Venkatesh V. Naik Gaonkar
son of Vithal Naik Gankar, major
of age,
R/o. H.No.107, Nageshi, Bandora,
Ponda-Goa. Indian National .. Respondents

Mr. N. Shirodkar, Advocate for the petitioner.

Ms. F. Cardozo, Advocate for the respondent no.2.

CORAM :- S. B. SHUKRE, J.

Date : 26th February, 2016

ORAL JUDGMENT :

Heard. Rule. Rule, made returnable forthwith. Heard finally by consent.

2. After having heard learned Counsel for the petitioner and learned Counsel for respondent no.2, what is seen is the fact that on 01/02/2014, learned Counsel for the petitioner as well as for the respondent no.2 were present before the District Judge and on that date, at the instance of the petitioner, the matter was

adjourned. It becomes clear that on that date, the matter was adjourned not to 03/01/2015 as stated in the application, but to 15/12/2014. Now, it is the contention of learned Counsel for the petitioner that instead of noting the date of 15/12/2014, the date was noted in the diary of learned Counsel for the petitioner as 15/01/2015. The rojnama which is produced before this Court and taken on record vide document X also shows that on 01/12/2014, the Revision Application was adjourned to 15/12/2014 and not to 03/01/2015, as stated in the application filed for restoration of the Revision Application. The mentioning of the date of 03/01/2015, appears to be a mistake committed while drafting this application. The dates mentioned in the rojnama indicate that in between the dates of 01/12/2014 and 03/01/2015, the Revision Application was also posted for arguments on 15/12/2014. The learned District Judge, however, while rejecting the application has only considered the pleadings in the application and has not closely perused the rojnama of the case. What is common in the averments in the application and argument now being submitted is the fact that the learned Counsel for the petitioner noted the date to be 15/01/2015. For such a mistake, I do not think that a party should be deprived of judgment on merits of the case. Besides, the delay, if any, on the part of the petitioner has not been so much as to cause serious prejudice to the case of the respondent

no.2. If there was any inconvenience caused to respondent no.2, same can be compensated in terms of money.

3. At this stage, learned Counsel for the petitioner submits that if one opportunity is given, the petitioner would submit his written notes of argument before the District Court and also on the same day would make his oral submissions.

4. In view of the above, writ petition deserves to be allowed and is allowed accordingly. The impugned order is quashed and set aside. One opportunity, by way of last chance, is given to the petitioner. The petitioner shall submit written notes of arguments as well as make his oral submissions, if any, at the convenience of the Court as well as parties on the date of his appearance. No adjournments shall be sought at the behest of the petitioner. The petitioner shall pay costs of Rs.1,000/- to the respondents. If any attempt is made to delay the matter, the learned Principal District Judge would be at liberty to deal with the same in accordance with law. Parties to appear before the Court of Principal District Judge on 07/03/2016 at 10.00 a.m.

5. Rule is made absolute in these terms.

S. B. SHUKRE, J.

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