

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 797 OF 2016

Smt. Suman Shet,
major in age, housewife,
resident of Sonarwada,
Betim Bardez Goa.
(Registered Address)

..... Petitioners

V e r s u s

1. Shri Madhukar B. C. Haldankar
since deceased through his legal heirs,
major of age.
- 1a. Smt. Madhumati Madhukar Haldankar,
wife of late Madhukar Haldankar
major of age.
- 1b) Mr. Sudesh Madhukar Haldankar,
Son of late Madhukar Haldankar,
major of age.
- 1c) Mrs. Sapana Sudesh Haldankar,
wife of Sudesh Madhukar Haldankar,
major of age.
- 1d) Mr. Sushant Madhukar Haldankar,
son of late Madhukar Haldankar,
major of age.
- 1e) Mrs. Preeti Sushant Haldankar
wife of Sushant Madhukar Haldankar,
major of age.
- 1f) Mrs. Sukanti U. Lotlikar,
daughter of late Madhukar Haldankar,
major of age.

- 1g) Mr. Umesh A. Lotlikar,
husband of Sukanti Lotlikar,
major of age.
- 1h) Mrs. Supriya R. Tandal,
daughter of late Madhukar Haldankar,
major of age.
- 1i) Mr. Rajesh P. Tandal,
husband of Supriya Tandal,
major of age.
- 1j) Mrs. Amita A. Kerkar,
daughter of late Madhukar Haldankar,
major of age.
- 1i) Mr. Anant Kerkar,
husband of Amita Kerkar,
major of age.
All resident of house no.135,
Sonarwada, Betim Bardez, Goa. Respondents

Shri Arjun Naik, Advocate for the Petitioner.

Shri J. J. Mulgaonkar, Advocate for the Respondents.

CORAM: C. V. BHADANG, J.
DATE: 23rd September, 2016.

ORAL JUDGMENT:

Rule. Made returnable forthwith. The learned counsel for the respondents waives service. Heard finally by consent of parties.

2. The application for condonation of delay filed by the petitioner was rejected, which was challenged before this Court in W.P. No.405/2015. This Court disposed of the said petition on 17/7/2015 by consent of the parties in the following terms:

ORDER:

(i) The impugned order dated 19/1/2015 is quashed and set aside.

(ii) The learned Additional District Judge-1 is directed to decide the application for restoration as well as the application to bring the legal representatives of deceased respondent on record after hearing the parties in accordance with law.

(iii) Rule is made absolute in the above terms.

3. It appears that the petitioner filed an application Exhibit 7 before the learned District Judge for registration of the application for restoration on the ground that the delay was

condoned. The learned District Judge framed a solitary point whether the application at Exhibit 7 is maintainable. By the impugned order dated 3/6/2016, the learned District Judge answered the point in the negative and dismissed the application at Exhibit 7 directing the petitioner to take steps to obtain appropriate modification of the order passed by this Court, which is subject matter of challenge in this petition.

4. At the outset it is necessary to state that once this Court had passed the order by consent of parties, directing the learned District Judge to decide the application for restoration, ordinarily there should not have been any dispute that the delay was condoned. In spite of the fact that the said order was passed by consent and the order was clear, the respondents chose to raise an objection and the learned District Judge entertained the same and has found that the application Exhibit 7 was not maintainable. Be that as it may, having heard the learned counsel for the parties, it is clarified that this Court has condoned the delay in filing the application for restoration. The impugned order dated 17/7/2015 is accordingly set aside. The learned District

Judge shall decide the application for restoration as well as the application to bring the legal heirs of the deceased respondent on record, after hearing the parties and in accordance with law. The petition is disposed of in the aforesaid terms with no order as to costs.

C. V. BHADANG, J.

Ap/