

IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL NO. 90 OF 2015

1. Shri Pandurang Bolu Chari,
married, of major of age,
businessman, residing at
Boca da Vaca, Panaji Goa.
Since deceased through his heirs
1(a) Smt. Rukmini Pandurang Chari,
major (widow)
1(b) Shri Bolu Pandurang Chari,
major (son)
1(c) Smt. Hema Bolu Chari,
major, (daughter in law)
1(d) Shri Sagar Pandurang Chari,
major (son)
1(e) Smt. Preeti Sagar Chari,
major (daughter -in- law)
1(f) Kum. Nayana Pandurang Chari,
major, Spinster (daughter)
All above resident of
Boca da Vaca, Panaji Goa. Appellants

V e r s u s

1. Smt. Ahilya alias Tirpati Sadasiv
Deushikar, widow of Sadashiv Deushikar,
(since deceased through legal heirs)
a)1. Shri Shantaram Deushikar,
(since deceased through legal heirs)
a) Mr. Kishor Deushikar,
b) Mrs. Jayashri Deushikar,
Both residing at H.No.4905/B/554,
Tanaji Galli, Belgavi-Karnataka.

c) Mrs. Asha Bhosle,
d) Mr. Satyavan Bhosle,

Both residing at H.No.116,
Chimulwada, Marcel Goa.

e) Mrs. Reema Shet,
f) Mr. Ramakant Shet,
Both residing at H.No.187,
Raint Moira, Bardez Goa.

g) Mrs. Arati Parab,
h) Mr. Atmaram Parab,
Both residing at H.No.70/1-A,
Vijaynagar, Sanqueli Goa.

i) Mrs. Beena Gaonkar,
j) Mr. Babani Gaonkar,
Both residing at C4, PWD
Quarters, Dattawadi, Mapusa Goa.

2. Smt. Taramati S. Deushikar,

b)1. Shri Gangaram Deushikar,
2. Smt. Reema Khorjuvekar,
3. Shri Ramadas Khorjuvekar,
4. Shri Audoot G. Deushikar,..... (Deleted as per order dt.
5. Shri Pandurang G. Deushikar, 16/09/2016)
6. Shri Ganesh G. Deushikar,
7. Madhuri G. Deushikar,
8. Shri Vasudev G. Deushikar,

c) 1. Shri Rajaram Deushikar,
2. Smt. Roshan R. Deushikar,

d) 1. Shri Tukaram Deushikar,
2. Smt. Aarti T. Deushikar,

e)1. Smt. Suhasini Shivram Deushikar,
2. Miss. Sunanda Shivram Deushikar,
3. Miss. Shruti Shivram Deushikar,.. (Deleted as per order dt.
4. Miss. Hira Shivram Deushikar, 16/09/2016)
5. Master. Ghanani Shivram Deushikar,

6. Master. Vinayak Shivram Deushikar,

- f) 1. Shri Tukaram Porob, (deceased)
represented through his LR's.
i. Smt. Dakshata D. Tandel,
ii. Smt. Dattaram Tandel,
iii. Shri Pratap Porob,
iv. Smt. Pratiksha Porob,
v. Shri Anil Porob,
vi. Smt. Aparana Porob,
vii. Shri Sanjay Porob,
viii. Shri Dnyaneshwar Porob,
ix. Smt. Priya Narvekar,
x. Shri Prashant Narvekar,
All residents of Piran, Bardez, Goa.

- g) 1. Smt. Vrinda Krishna Khobrekar,
2. Shri Anand Khobrekar,
3. Smt. Anjua Khobrekar,
4. Master. Prakash Khobrekar,
5. Master Prasad Khobrekar,
6. Master Sanjay Khobrekar,
All resident of Verla Canca,
Bardez Goa.

2. Shri Anthony Swamy Xavier Dias,
House No.355, M. B. Morod,
Padre Bhatt,
Taleigao, Tiswadi Goa.
(All above major of age)

..... Respondents

Mr. Somnath B. Karpe, Advocate for the appellants.

Mr. Sagar Malkarnekar, Advocate for the respondents.

Coram:- F. M. REIS, J.

Date:- 16th September, 2016

ORAL JUDGMENT

Heard Mr. S. Karpe, learned counsel appearing for the appellants and Mr. S. Malkarnekar, learned counsel appearing for the respondents.

2. At the request of the learned counsel appearing for the appellants leave to delete the respondent nos.1(b)4 and 1(e)3 as their legal representatives are already on record.

3. Admit on the following substantial question of law :

Whether the Courts below have misconstrued the sale deed dated 14.01.1987 at Exhibit 48 while coming to the conclusion that the appellants have encroached into the property of the respondents ?

4. Heard forthwith with the consent of the learned counsel.

5. The learned counsel appearing for the respondents waives service.

6. During the course of the hearing of the above appeal, Mr. S. Karpe, learned counsel appearing for the appellants has pointed out that the parties have amicably settled their dispute with regard to the disputed encroachment which was the subject matter of the suit and have signed the consent terms. The consent terms are stated to have been signed by the appellants and the respondents along with their respective Advocates. The learned counsel appearing for the appellants and the respondents have identified the signatures of the respective parties to the above appeal. It is also pointed out that in terms of the consent terms, the dispute with regard to the encroachment has been amicably settled. The consent terms along with the plan are accepted and marked "X" for identification. As such, the learned counsel submit that the appeal be accordingly disposed of in terms of the consent terms. In view of the above, the substantial question of law is answered accordingly.

7. In view of the above, I pass the following :

ORDER

(i) The judgment dated 01.11.2007 passed by the

learned Trial Judge in Regular Civil suit No.448/2000 and the judgment dated 05.06.2015 passed by the learned Lower Appellate Court in Regular Civil Appeal No. 95/2007 are quashed and set aside. The suit stands decreed in terms of the consent terms and the plan marked "X" for identification.

(ii) Decree to be drawn accordingly.

(iii) The appeal stands disposed of accordingly with no order as to costs.

F. M. REIS, J.

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