

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 878 OF 2015**

Shri Rajaram Kalangutkar,
Since deceased through his legal
representatives,

1(a) Shri Narsinva R. Kalangutkar, son of
Rajaram Kalangutkar, Age-43 years,
occupation-businessman,

1(b) Smt. Sammruddi Narsinha
Kalangutkar, Wife of Shri Narsinha
Kalangutkar, Age-42 years, married,
occupation-housewife,

Both residents of H. No. 209/4,
Peddem, Mapusa, Bardez, Goa.

.... Petitioner

Versus

Fr. Franklin D'Mello, (deceased)

1. Smt. Sira Soares, (deceased)

2. Shri Capislrano Soares, (deceased)

3. Smt. Usha Ulhas Kerkar, Wife of Mr.
Ulhas Sonu Kerkar, Major of age,
married, service, resident of H. No.
254/D1, "Sonalay", Xelpem, Mapusa,
Bardez, Goa.

4. Mrs. Waidehi Ratnakant Kerkar alias
Himali Bhagwant Naik, wife of Mr.
Ratnakar N. Kerkar, major of age,
married, housewife, presently
residing at H. No. 151, Dangui
Colony, Alto Duler, Mapusa, Goa.

.... Respondents

Mr. Sudesh Usgaonkar, Advocate for the Petitioner.

Mr. Jagannath J. Mulgaonkar, Advocate for Respondent Nos. 3 and 4.

CORAM:- S.B. SHUKRE, J.

DATE:- 22nd FEBRUARY, 2016.

ORAL JUDGMENT:

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

2. Affidavit in reply filed on behalf of respondent no. 4 is taken on record.

3. The question involved in this petition is as to whether or not, the clean admission given by learned Counsel for the petitioner before the Revisional Court, would amount to demonstrating a sufficient cause for allowing the application filed under Order 9 Rule 4 read with Section 141 of the Civil Procedure Code for restoration of the revision application.

4. Upon consideration of the arguments canvassed by both sides, I find that an admission given by the petitioner is bonafide and therefore, it ought to have been considered by the

learned Adhoc District Judge as constituting sufficient cause for allowing the application filed by the petitioner for restoration of the revision application. If this is not done, the parties would be encouraged to come out with false pleas before the Court to show sufficient cause. Besides, commission of a mistake in this case appears to be on account of genuine reasons, apart from the fact that it was only a first mistake. No human being is infallible and one who plainly admits a mistake, in some cases, deserves different treatment. This case is that case wherein the mistake of the learned Advocate is required to be considered differently and showing sufficient cause, for the reasons stated earlier. In the result, I find that this Writ Petition must be allowed.

5. Writ Petition is allowed. The impugned order dated 15.10.2015 is quashed and set aside. Application vide Exhibit No. B/2 is allowed in terms of its prayer clause.

6. Having regard to the submission of learned Counsel for respondent nos. 3 and 4 that the eviction order is passed way back in the year 1996, I find that now time is ripe for expediting final disposal of the revision proceedings. Therefore,

it is directed that the said application be disposed of finally within two months from the date of appearance of the parties. Parties to appear before the Revisional Court on 08.03.2016 at 10:00 a.m.

7. Rule is made absolute in these terms. No costs.

S. B. SHUKRE, J.

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