

IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION (REVIEW) NO. 3 OF 2017

IN

SECOND APPEAL NO. 85 OF 2007

**SHRI. VENKATESH M. KAREKAR
(DECEASED) AND 6 ORS.,**

... Applicants

Versus

ROSEMARY FERNANDES AND 9 ORS.,

... Respondents

Mr. S. D. Lotlikar, Senior Advocate with Mr. C. Padgaonkar,
Advocate for the applicants.

Mr. J. E. Coelho Pereira, Senior Advocate with Mr. V.
Korgaonkar, Advocate for the respondents.

Coram:- F. M. REIS, J.

Date:- 3rd March, 2017

P.C.

Heard Mr. S. D. Lotlikar, learned Senior Counsel appearing for the applicants and Mr. J. E. Coelho Pereira, learned Senior Counsel appearing for the respondents.

2. This review petition is on the premise that the observation of this Court in the judgment dated 15.10.2015 while disposing of Second Appeal No.85 of 2007 at para 9 has to be reviewed as according to the learned Senior Counsel appearing for the applicants, such observation with regard to possession is an error apparent on the face of record. It is further pointed out that such observation was not necessary as according to the learned Senior Counsel appearing for the applicants, the relief of permanent injunction was not pressed by the respondents.

3. On the other hand, Mr. J. E. Coelho Pereira, learned Senior Counsel appearing for the respondents submits that there is a categorical finding in the judgment passed by the Courts below to the effect that the appellants have failed to establish their possession of the subject property. The learned Senior Counsel as such points out that reading of the said judgment as a whole, there is no case made out for any review of the judgment.

4. I have duly examined the rival contentions and I have also gone through the records. As the relief of permanent injunction was not pressed, the finding of the learned Judge with regard to their claim of possession has not been examined by this Court. There is only a typographical error at para 9 of the said judgment wherein the word "possession" recorded at line 12 stands deleted and the word "prescription" stands inserted. This error is obvious as it is not disputed that there was a claim of adverse possession/prescription raised by the appellants in the counter claim which has been rejected by both the Courts below. Registry to rectify the said error in the judgment accordingly.

5. The application stands disposed of accordingly.

F. M. REIS, J.

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