

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 148 OF 2017

IN

STAMP NUMBER MAIN NO. 3440 OF 2015

SHRI. RAGHU VITHU GAONKAR., ... Applicant

Versus

BABUSSO PUNDALIK GAONKAR AND 10
ORS., ... Respondents

Shri Prashil Arolkar, Advocate for the applicant.
Ms. S. Sawant, Advocate for the respondent no.2.

Coram:- NUTAN D. SARDESSAI, J.

Date:- 12th October 2017

P.C.

Ms. S. Sawant, learned Advocate for the respondent no.2 submits that she has no objection to the application. Even otherwise, Shri P. Arolkar, learned Advocate submits that the appellant and the respondent nos.1, 4,5,6,8,10 and 11 were dead much before the passing of the award by the Reference Court on 20.2.2015 and that although the applications were moved before the Reference Court to bring the legal heirs on record, these were not pursued to their logical end.

2. Be that as it may he relied in Vishwamber Vithal Kanekar, Vs Umakant K. Kanekar, and other, in First Appeal No.108/2010 particularly to buttress his point that the award

against the dead persons was a nullity and that the judgment and award had to be set aside and proceedings remitted to the Reference Court for decision afresh.

3. Considering the fair concession of Ms. S. Sawant, learned Advocate for the respondent no.2 and the judgment passed in Vishwamber Kanekar, (supra), i find merit in the application which is hereby allowed. The impugned judgment and award dated 20.2.2015 is quashed and set aside and the Land Acquisition No. 158/1996 is remitted to the Court of the District Judge-II, Panaji sitting at Ponda to take appropriate steps in the matter i.e. to bring the legal heirs on record of the parties and proceed with the matter in accordance with law. The learned Reference Court is directed to dispose off the reference as expeditiously as possible and within one year.

4. The application stands disposed off.

NUTAN D. SARDESSAI, J.