

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 748 OF 2016

IN

SECOND APPEAL NO. 23 OF 2013

SMT. NIRMALABAI SHIVAJIRAO DESSAI
(DEC), BY HER LRS. AND 10 ORS.,

... Applicants

Versus

SHRI. VITORINO RODRIGUES AND 4
ORS.,

... Respondents

Mr. S. Keny, Advocate for the applicants.
Mr. R. Menezes, Advocate for the respondent no.1.

Coram:- F. M. REIS, J.

Date:- 8th March, 2017

P.C.

Heard Mr. S. Keny, learned counsel appearing for the applicants and Mr. R. Menezes, learned counsel appearing for the respondent no.1.

2. This is an application to recall the order passed by this Court dated 23.06.2016 whereby the appeal was dismissed for non prosecution as no steps were taken to bring the legal heirs of the deceased respondent nos. 5(e) and (f). It is admitted position that up to now even in the above application, the legal heirs of the deceased respondent no.5 (e) and (f) have not been brought on record. But however, it is pointed out by the learned counsel appearing for the applicants that the respondent nos. 5(e) and (f)

had expired during the pendency of the appeal before the learned Lower Appellate Court. In such circumstances, the question of bringing the legal heirs of the deceased respondent nos. 5(e) and (f) in the present appeal would not at all be justified. The consequence in law would naturally follow. As such, in the peculiar facts and circumstances of the case, the order dated 23.06.2016 is recalled. Needless to say, all the objections, if any, of the respondents are left open.

3. Place the matter for admission on 07.04.2017.
4. The application stands disposed of accordingly.

F. M. REIS, J.

at*