

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 1182 OF 2016

SMT. LAXMI VISHNU RAUL, THR.
ATTORNEY HOLDER SHRI. DATTA GURU
NARAYAN RAUL AND ANR.,

... Petitioners

Versus

SMT. SUHASINI PANDURANG HALDANKAR
(DECEASED) AND 5 ORS.,

... Respondents

Shri J.P. Mulgaonkar, Advocate for the Petitioners.
Shri Ashwin D. Bhole, Advocate for Respondents Nos.2 to 5.
Shri P. Arolkar, Advocate for Respondent No.6.

Coram:- C. V. BHADANG, J.

Date:- 24th March, 2017

ORAL ORDER :

Heard Shri Mulgaonkar, the learned Counsel for the petitioners, Shri Bhole, the learned Counsel for the respondent nos.2 to 5 and Shri P. Arolkar, the learned Counsel for respondent no.6.

2. The suit filed by the petitioners was partly decreed against the petitioners. This was challenged by the petitioners in appeal which came to be allowed and the judgment and order dated 9/09/2009 by the Trial Court was set aside. However, at the same time, the appellate Court directed the respondent no.6 to hold auction of the suit shop. The petitioners aggrieved by the later part of the order filed an application for review which was dismissed on 17/09/2016 which order is subject matter of challenge in this petition.

3. The learned Counsel for the respondent nos.2 to 5 points out that the respondents have filed Second Appeal no.18/2017 challenging the judgment of the appellate Court which appeal has been admitted on 27/02/2017. He points out that in such circumstances, the Writ Petition would not be maintainable.

4. On hearing the learned Counsel for the parties, it appears that the respondents have challenged the appellate decree in a Second Appeal which is admitted. The present petition involves challenge to the part of the appellate decree, which is subject matter of challenge in a second appeal. In such circumstances, I decline to entertain the Writ Petition which is accordingly disposed off with liberty to the petitioners to take appropriate recourse against the judgment of the appellate Court, in accordance with law and if so advised. In the circumstances, there shall be no order as to costs.

C. V. BHADANG, J.

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