

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5335 OF 2015

Narmada Sakharam Patil alias Narmada Gopal Desale
(decd) through heirs Chandrakant G. Desale and ors. ... Petitioners
Vs.
M/s. Unnathi Estates and ors. ... Respondents

WITH
WRIT PETITION NO.5336 OF 2015

Narmada Sakharam Patil alias Narmada Gopal Desale
(decd) through heirs Chandrakant G. Desale and ors. ... Petitioners
Vs.
M/s. Roma Builders Private Limited and ors. ... Respondents

Mr. Rahul Singh i/b. Legal Catalyst for Petitioners in both the Petitions.
Mr. Roshan S. Tanna i/b. Mr. J. M. Joshi for Respondent No.1 in Writ
Petition No.5335 of 2015.
Ms Gauri Godse for Respondent No.1 in Writ Petition No.5336 of 2015.
Mr. Sandesh Patil and Mr. Chintan Shah for Respondents No.2 to 7 in both
the Petitions.

CORAM : R. G. KETKAR, J.
DATE : 09TH MARCH, 2017

P.C. :

Heard Mr. Singh, learned Counsel for petitioners in both the
Petitions, Mr. Tanna, learned Counsel for respondent No.1 in Writ
Petition No.5335 of 2015, Ms Godse, learned Counsel for respondent
No.1 in Writ Petition No.5336 of 2015 and Mr. Patil, learned Counsel
for respondents No.2 to 7 in both the Petitions. Rule. Learned Counsel
for respective parties waive service for respondents. At the request and
by consent of the parties, Rule is made returnable forthwith and the
Petitions are taken up for final hearing.

2. These Petitions were heard on 30.06.2015. On behalf of the

petitioners, Mr. Singh made statement that he will restrict prayer clause (a) in the Suit in the following terms:

“a) The Hon'ble Court after hearing both the parties be pleased to declare that, applicants are legal heirs and lawful representatives of late Sakharam Dadabhai Patil.”

3. In other words, petitioners deleted following words from prayer clause (a):

“wherein applicants have inherited their respective 1/3rd undivided and indivisible share in the said bigger property.”

4. Mr. Singh states that petitioner No.1/1 - Chandrakant Gopal Desale, in both the Petitions, is present in the Court. He has tendered photocopy of his PAN Card, which is taken on record and marked 'X' for identification. Upon taking instructions, he states that within two weeks from today, he will take out application for carrying out amendment in Miscellaneous Application No.508 of 2013, which is converted into Special Civil Suit No.596 of 2014, by producing the authenticated copy of the today's order. Statements made by Mr. Singh today, on instructions, as also recorded in paragraphs 4 and 5 of the order dated 30.06.2015 are accepted. Petitioner shall carry out necessary amendment within two weeks from today in the trial Court and the trial Court will permit the petitioners to carry out the amendment.

5. In view thereof, applications at exhibits-33 and 46 made by respondent No.1 in Writ Petition No.5335 of 2015 and respondent No.1 in Writ Petition No.5336 of 2015 do not survive and the same are disposed of. In other words, respondent No.1, in both the Petitions, shall not be impleaded in Special Civil Suit No.596 of 2014. Liberty is reserved to the parties to request the trial Court to club Special Civil Suit No.596 of 2014 with Special Civil Suit No.217 of 2010, which are

pending before the Court of Civil Judge, Senior Division, Thane. It is made clear that I have not examined the merits of the case. All contentions of the parties are expressly kept open. Rule is made absolute in the aforesaid terms with no order as to costs.

(R. G. KETKAR, J.)

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