

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL (ST) NO. 28257 OF 2016

Shri Sahebrao Dashrath Koli ... Appellant

Versus

Smt. Limbabai Hanmant Koli ... Respondent

ALONG WITH
CIVIL APPLICATION NO. 360 OF 2017
IN
SECOND APPEAL (ST) NO. 28257 OF 2016

Mr. S.P. Rajepandhare for the Appellant.

CORAM : S.J. KATHAWALLA, J.
DATED : 8TH JUNE, 2017

P.C.:

1. I was given the assignment of Second Appeals from 5th June, 2017. As per the general practice, I had requested the Court Office to provide me with the list of pending matters. I was not just surprised, but was shocked to learn that there are about two thousand Second Appeals and a few hundred Miscellaneous Civil Applications which are pending in this Court for Admission. After I started taking up these matters, the reasons become apparent. They are as follows :

(i) After the Second Appeals/Applications are filed, the Advocates for the Appellants/Applicants do not remove objections for several months, because of which the Appeals/Applicants cannot be numbered. The Registrar, Judicial II, repeatedly

keeps such Appeals/Applications on Board, when the Advocates for the Appellants/Applicants do not even bother to appear before the Registrar on a single occasion. The Registrar, Judicial II, keeps on adjourning the matters by directing the Advocate for the Appellants/Applicants to remove office objections, which directions fall on deaf ears. The Advocates on record remove office objections in their own sweet time. The Office is therefore, unable to number the Appeals/Applications for months together.

(ii) Again after the objections are removed and the Appeals/Applications are numbered and notice before Admission is directed by the Court, as per the Bombay High Court Appellate Side Rules, it is the Court Office which is required to serve the proceedings on the Respondents and private notice can be effected on the Respondents only if the Presiding Judge gives a specific direction to this effect. To enable the Office to effect private service, the Advocate for the Appellants/Applicants are required to provide copies of the Appeals/Applications to the Court Office. Again this is not done by the Advocates despite repeated directions by the Court/Registry and such Appeals/Applications cannot be placed on board for Admission, unless service is effected on all the Respondents. The service by the Court Office is also delayed because there are several instances of the address of the Respondents provided to the Court Office being incomplete. Even in cases where the Court had directed private service, either the Advocate has not bothered to effect private service or is not ready with the affidavit proving service. In cases where the Advocates have

received intimation that the private service could not be effected in view of the Respondents not being found at the given address, the Advocates do not even move an Application seeking substitute service.

2. For the above reasons, two thousand Second Appeals and a few hundred Misc. Civil Applications are pending before this Court for Admission, some of them since the year 2013.

3. I am therefore of the view that the need of the hour is not only to pass stern orders in such matters, but to amend the Bombay High Court Appellate Side Rules and make private service on the Respondents mandatory, in addition to the service by the Court Office.

4. In the above Second Appeal, on 6th March, 2017 this Court (Coram : S.C. Gupte, J.) passed the following order :

“Heard learned Counsel for the Appellant.

Issue notice to the Respondent returnable on 27 March 2017. The Appellant is also permitted to effect a private service and file an affidavit of service by the next date.”

5. Thereafter, the above order was not complied with and therefore at the request of the Advocate for the Appellant, the matter was directed to be stood over to 11th April, 2017. Even thereafter, objections are not removed, no private service has been effected till date and the office is also not supplied with the copies for issuing notice to the Respondent. In fact, even on 2nd May, 2017 the matter was placed before

the Registrar (Judl.-II), when none appeared for the parties. Despite that, the Registrar (Judl.-II) granted a weeks time to remove objections and also a weeks time granted to supply copies to enable the office to issue notice to the Respondent. None of the orders have been complied with. The above Second Appeal stands dismissed.

6. In view of the dismissal of the above Second Appeal, the above Civil Application does not survive and the same is disposed off.

7. A copy of this order shall be forthwith forwarded to the Hon'ble the Chief Justice / Administrative Committee for appropriate action.

(S.J.KATHAWALLA, J.)