

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

953 REVIEW APPLICATION (CIVIL) NO. 203 OF 2017
IN
CIVIL APPLICATION NO. 1428 OF 2017
IN
FIRST APPEAL NO. 28 OF 1996

Meghasham s/o Rangnathbuwa Gosavi ...Applicant

versus

Smt. Gopikabai w/o Krishnabuwa (Died)
Raghunath s/o Narayanbuwa Gosavi and others ...Respondents

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Mr. S.S. Thombre, Advocate for Applicant
Shri V.J. Dixit, senior counsel i/b Mr. A.M. Dabir, advocate for respondent
No.2

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CORAM : V. K. JADHAV, J.
DATED : 15th MARCH, 2018

PER COURT:-

1. Heard learned counsel for the respective parties.
2. By this review application, the applicant is seeking review of the order dated 05.06.2017 passed by this Court in civil application No. 1428 of 2017 in first appeal No. 28 of 1996.
3. Learned counsel for the review petitioner submits that the order dated 05.06.2017 came to be passed by deleting the present applicant from the array of the respondents and as such, the said order is not binding on the present review petitioner. Learned counsel submits that

the applicant is legal heir of deceased Rangnathbuwa s/o Bhanudasbuwa Gosavi, who was the respondent in Trust Suit No. 2 of 1974 and the judgment and decree passed in the said Trust Suit No. 2 of 1974 is impugned in first appeal No. 28 of 1996. The review petitioner was arrayed as respondent 1d as per the amendment carried out on 15.2.1990 in Trust Suit No. 2 of 1974, as the father of the review petitioner viz. Rangnathbuwa, who was defendant No.1 died on 26.11.1989. Thus, alongwith other legal representatives i.e. legal representative Nos. 1a to 1c the present review petitioner was representing deceased defendant No.1 Rangnathbuwa. The order passed in civil application No. 1428 of 2017 was executed and thereafter the review petitioner got knowledge that the said order came to be passed thereby deleting the present review petitioner from the array of the respondents. Learned counsel submits that the review petitioner came to be deleted from the array of the respondents without taking steps to serve him and as such valuable rights of the review petitioner to prosecute the civil application were taken away. The order dated 05.06.2017 came to be passed without giving an opportunity of being heard to the present review petitioner. Learned counsel submits that even the Supreme Court, while disposing of the Special Leave Petition (C) No.(s) 20144-20149 of 2015, left it open to this Court to pass fresh orders after hearing all contesting parties and after considering the claim of such parties, including the parties to the said Special Leave Petitions. The present review petitioner was party in the

said special leave petitions and as such, the order dated 05.06.2017 passed by this court is required to be reviewed by giving an opportunity of being heard to the review petitioner.

4. Learned senior counsel for the respondents submits that the parties to the litigation are all lineal descendants of Sant Eknath Maharaj of Paithan. The parties belong to two branches of Sant Eknath Maharaj, one of Meghashyam's branch and other Raghoba's branch. Both the branches are 8 Anna (50%) share divided interse between them since beginning with respect to Salpali i.e. charge and management of both the temples of Sant Eknath Maharaj situated at Paithan on year to year basis, starting from *Falgun Vaidya Navami*, with respect to the rights of taking *Palkhi* of Sant Eknath Maharaj to Pandharpur on account of *Ashadhi Ekadashi*. The dispute is regarding Salpali, mainly because the applicant is adopted son in the branch of Raghoba and the persons, who belong to Meghashayam's branch, do not accept anyone outsider in adoption claiming right of Salpali. Learned senior counsel submits that as father of present review petitioner viz. Rangnathbuwa, who was defendant No.1 died in Trust Suit No. 2 of 1974, thereafter alongwith other legal representatives i.e. respondent Nos. 3A to 3C herein were brought on record. Though the respondent Nos. 3A to 3C were duly served in civil application No 1428 of 2017, however, the present review petitioner, who was respondent No.3d in civil application No. 1428 of 2017 as one of the legal heir of deceased

Rangnathbuwa was avoiding service of notice and as such, his name was deleted from the array of the respondents for the reason that his branch was duly represented by the other legal heirs i.e. respondent Nos. 1a to 1c in civil application No. 1428 of 2017 and further the very purpose of filing civil application No. 1428 of 2017 would have been defeated, since the Salpali is on yearly basis. Learned senior counsel submits that the order passed in civil application No. 1428 of 2017 is already executed and even the next term would begin in the month of March, 2018 itself for which the present review petitioner alongwith other legal heirs filed civil application and the same is pending. Learned senior counsel submits that there is no need to review the said order only on the grounds as raised by the review petitioner herein.

5. I do not find any substance in this review petition. The other legal heirs of Rangnathbuwa i.e. respondent Nos. 1a to 1c in civil application No. 1428 of 2017 have strongly contested the civil application No. 1428 of 2017. The review petitioner was very much represented and after considering the submissions made on behalf of the branch of deceased Rangnathbuwa, this court has passed order on 05.06.2017. This Court, by giving due regard to the submissions made on behalf of the parties and after considering the judgment and decree passed in Regular Civil Suit No. 52 of 1971, which has attained finality and further the judgment and decree in R.C.S. No. 176 of 1957 which has also attained finality, the respondents descendants, including the applicants in civil

application No. 1428 of 2017 have been permitted to enjoy the rights of Salkari. In view of the earlier order passed by this Court, it has been held that there is no legal impediment to allow the civil application No. 1428 of 2017 to exercise the rights of Salpali as per the turn. Furthermore, in terms of the order passed by this court in civil application No. 1428 of 2017, the order has been executed and at present the review petitioner alongwith the other legal heirs of deceased Rangnathbuwa also filed an application for the same relief as claimed by the respondents in civil application No. 1428 of 2017, as per their annual turn of Salpali.

6. In view of above discussion, I do not find that any case is made out to review the order dated 05.06.2017 passed by this Court in civil application No. 1428 of 2017. Review application, is therefore, rejected.

(V. K. JADHAV, J.)

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