

IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION (REVIEW) NO. 29 OF 2018

IN

WRIT PETITION NO. 607 OF 2018

**NAMDEV RAJARAM GAWDE, REP. BY
PETITIONER NO. 2 AND ANR.,**

... Applicants

Versus

WAMAN SADASHIV JOSHI AND 2 ORS.,

... Respondents

Petitioner no.2 in person.

Coram:- C. V. BHADANG, J.

Date:- 25th September 2018

P.C.

Heard the petitioner no.2 in person. Incidentally, the petitioner no.2 also happens to be the Advocate, who represents the petitioner no.1, who is her husband.

2. This is an application for review of the order dated 09/08/2018, passed by this Court in W.P. No.607/2018, by which the Writ Petition challenging the judgment and order dated 28/02/2018, passed by the learned District Judge at Mapusa in Miscellaneous Civil Appeal No.122/2016, has been dismissed. The learned District Judge had confirmed the order dated 28/09/2016 passed by the learned Civil Judge, Junior Division, Pernem in Civil Miscellaneous Application No.15/2016 in

Regular Civil Suit No.53/2008. By the said order, an application for review filed by the respondents, has been allowed and as a result, the application for amendment of the Written Statement filed by the petitioners will have to be heard afresh.

3. The only ground, which is raised on behalf of the petitioners is that the Review Application was not maintainable and the ground about there being a misconception as to which suit was fixed for hearing, was not taken.

4. I do not find that the contention can be accepted. This Court has noted that there is an affidavit of Advocate Mr. Sangodkar filed, supporting the application for review. A bare perusal of paragraphs 6, 7 and 10 of the application for review would make it clear that there was a ground of error made out. In paragraph 10 of the Review Application, it is stated as under :

"10. The error occurred is purely due to mistake in placing the suit file of this suit before the Hon'ble Presiding Judge when the matter was being argued in the Reg. Civil Suit No.37/2012 of the defendants no.1(e)&1(f)."

5. It can, thus clearly, be seen that there was a ground that there was some mistake / error as to which suit was taken up for hearing, which was made out. That apart this Court has also found that there is no manifest injustice on the petitioners in as

much as the application for amendment filed by the petitioners would be heard and decided afresh by the Trial Court. The impugned order does not show any error apparent on the face of record. In that view of the matter, no case for review is made out. The Review Application is, accordingly, dismissed.

C. V. BHADANG, J.

SMA