

Vikrant B. Chavan	...	Petitioner
Vs.		
The Divisional Commissioner, Konkan Division		
and others	...	Respondents

Mr. Saurabh D. Butala for Petitioner.
Mr. J. A. Madane, AGP for Respondent No.1.
Mr. S. M. Gorwadkar, Senior Advocate a/w. Mr. Jagdish Reddy for
Respondents No.2 and 3.
Mr. Indrajeet Kulkarni for Respondent No.4.
Mr. B. G. Tangsali for Respondent No.13.

CORAM : R. G. KETKAR, J.
DATE : JULY 20, 2018

Heard Mr. Butala, learned Counsel for the petitioner, Mr. Madane, learned AGP for the respondent No.1, Mr. Gorwadkar, learned Senior Counsel for respondents No.2 and 3, Mr. Kulkarni, learned Counsel for the respondent No.4 and Mr. Tangsali, learned Counsel for the respondent No.13 at length.

2. In the order dated 11.04.2018, while issuing notice to the respondent No.13, it was noted that respondent No.13 is the only contesting respondent. Rule. Learned Counsel for the respective respondents waive service. Notice of Rule on rest of the respondents is dispensed with.

3. By this Petition under Article 227 of the Constitution of India, petitioner, hereinafter referred to as 'defendant No.6', has challenged the order dated 19.07.2017 passed by the learned District Judge-5, Thane in Miscellaneous Civil Appeal No.103 of 2017. By that order, the learned

District Judge allowed the Appeal preferred by respondent No.13, hereinafter referred to as 'plaintiff', and quashed and set aside the judgment and order dated 28.04.2017 passed by the learned Joint Civil Judge, Senior Division, Thane below exhibit-5 in Regular Civil Suit No.256 of 2017. The learned District Judge had stayed the operation of letter / order under challenge issued by the Divisional Commissioner, Konkan Bhuvan (respondent No.1) till disposal of the Suit. The learned District Judge also directed the trial Court to dispose of the Suit within a period of 6 months.

4. The matter was heard at length from time to time. Mr. Tangsali, on instructions of respondent No.13, states that without recording any reasons, the impugned order may be set aside and Miscellaneous Civil Appeal No.103 of 2017 may be restored to the file of the learned District Judge for deciding it afresh. He submitted that in the meantime, letters dated 30.03.2017 and 10.04.2017 issued by the Divisional Commissioner may be kept in abeyance.

5. Learned Counsel for the parties assure that the parties will appear before the learned District Judge on 02.08.2018, and for that purpose, no fresh notice be issued to them.

6. In view thereof, Petition is disposed of without recording reasons in the following terms:

- a. Impugned order dated 19.07.2017 is quashed and set aside and Miscellaneous Civil Appeal No.103 of 2017 is restored to the file of the learned District Judge for deciding it afresh;
- b. Parties will appear before the learned District Judge on 02.08.2018, and for that purpose, no fresh notice be issued

to them;

- c. The learned District Judge is requested to fix the suitable date and thereafter dispose of the appeal within two weeks from fixing such date for final hearing;
- d. In the meantime, pending the appeal, the operation of letters dated 30.03.2017 and 10.04.2017 issued by the Divisional Commissioner, Konkan Bhuvan (respondent No.1) is kept in abeyance;
- e. Rule is made absolute in the aforesaid terms with no order as to costs.

(R. G. KETKAR, J.)

Minal Parab

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Date:
2018.07.21
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