

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5207 OF 2018

Mrs. Joyce Mendes .. Petitioner
vs.
Mrs. Cecilia Vaz
(since deceased through
L.Rs. and ors) .. Respondents

Ms Sapna Krishnappa I/b Mr. Suresh Dubey for the Petitioner.
Mr. P.R. Kadam for Respondent No.1.

CORAM : M. S. SONAK, J.
DATE : 30 NOVEMBER 2018.

P.C. :-

1] Heard Ms Sapna Krishnappa for the Petitioner and Mr. P.R. Kadam for the respondent No.1.

2] Ms Krishnappa, the learned counsel for the petitioner-original defendant-tenant, submits that upon demise of Cecilia Vaz, only one of the legal representatives had applied for being brought on record as plaintiff/applicant and in the very same application, it was stated that the other legal representatives of Cecilia Vaz be joined as defendants in the suit. She points out that even though there was no such relief in the application, the learned Trial Judge has permitted all the legal representatives of late Cecilia Vaz to come on record as plaintiffs/applicants. She submits that such an exercise on the part of the learned Trial Court is an exercise in excess of jurisdiction. She

submits that in the absence of any relief, the learned Trial Judge was not entitled to grant such relief over and above relief originally prayed in the application. She submits that since the Revisional Court has also not appreciated the matter from this perspective, the order made by the Revisional Court also warrants interference.

3] Mr. P.R. Kadam, the learned counsel for the respondent No.1, defends the impugned order for reasoning reflected therein. He points out that all the legal representatives of late Cecilia Vaz have no difficulty in pursuing the matter as plaintiffs/applicants and the petitioner, who is the original defendant, does not even have any *locus standi* to raise this kind of objection. He points out that this kind of objection has been raised only to delay the proceedings in the trial Court.

4] The rival contentions now fall for determination.

5] The contentions raised on behalf of the petitioner cannot be accepted. It is true as contended by the learned counsel for the petitioner that there may not have been any specific relief that all legal representatives of Cecilia Vaz be brought on record as

plaintiffs. However, the learned Trial Court has powers to mould the reliefs in the interests of justice and this cannot be stated to be some exercise in excess of jurisdiction.

6] This is not a case where the legal representatives of late Cecilia Vaz have some *inter se* difference or in any case there are no *inter se* differences which are presently subsisting. The learned counsel for the respondent No.1 states that initially there may have been differences but at least for the present, there are no differences and a common vakalatnama has been filed on behalf of all the legal representatives.

7] If this be the position, then obviously, there is absolutely no reason to interfere with the impugned order in the exercise of extraordinary jurisdiction under Article 227 of the Constitution of India.

8] For all the aforesaid reasons, this petition is dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)