

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION No. 738 OF 2014

High Court on its own motion	... Applicant
Vs.	
All Petitioner & Respondents in (M.A. No. 67 of 2011) Subhadrabai w/o. Goroba Kamble & Ors.	... Respondents

**WITH
CIVIL REVISION APPLICATION No. 736 OF 2014**

High Court on its own motion	... Applicant
Vs.	
All Petitioners & Respondents in (R.C.S. No. 152 of 2012) Ashabai w/o. Yadav Kamble & Ors.	... Respondents

**WITH
CIVIL REVISION APPLICATION No. 737 OF 2014**

High Court on its own motion	... Applicant
Vs.	
All Petitioners & Respondents in (R.C.S. No. 281 of 2002) Ankush s/o. Vishwambhar Biradar & Ors.	... Respondents

Mr. Sangharsh Waghmare h/f. Ravi P. Jadhav, Advocate for
respondent nos. 4, 6, 8 and 10 in C.R.A. No. 736 of 2014.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **4th June, 2018.**

P.C.:

The High Court on its own has filed three Civil Revision Applications pursuant to the order passed by the Hon'ble the Chief Justice on 12th June, 2014 on administrative side on the office note

placed by the Registrar (Inspection-I). The Principal District Judge, Latur by letter dated 3rd May, 2014 has informed that the Judge Late Shri V.G. Godepure, who was posted and working as Joint Civil Judge Senior Division, Nilanga, District Latur, unfortunately died in a road accident on 31st March, 2014. Mr. Godepure has orally pronounced the judgment in three matters, i.e., R.C.S. No. 152 of 2012 (decided on 27.03.2014 as "Dismissed"), Miscellaneous Application No. 67 of 2011 (decided on 27.03.2014 as "Dismissed") and R.C.S. No. 281 of 2002 (decided on 28.03.2014 as "Suit decreed") without dictating the reasoned judgments. R.C.S. No. 152 of 2012 was for partition and separate possession. Miscellaneous Application No. 67 of 2011 was for taking action against the judgment debtor and for disobedience of the order of injunction issued by the Court. R.C.S. No. 281 of 2002 was filed for perpetual and mandatory injunction. He wrote the order in one word as "dismissed" and "decreed" in the respective matters in his handwriting on his daily board of the respective dates, however, he neither dictated the reasoned judgment nor prepared operative part of the judgment. This fact was verified from his stenographer. As the judgments were pronounced, the parties applied for certified copies of the judgment and decree. However, as the judgments were not available, no

certified copies were provided to the parties.

2. The Principal District Judge informed this peculiar and rare situation to the High Court and sought necessary directions, as parties did not take steps. The submission was placed before the Hon'ble the Chief Justice on administrative side. Pursuant to the directions of the Hon'ble the Chief Justice, Registrar (Judicial) took suo moto action and filed Revisions under section 115 of the Code of Civil Procedure before the High Court. Thereafter, these Civil Revision Applications were filed and all the three matters were placed before the Single Judge of this Court and by the order dated 27th June, 2014, the Hon'ble Judge, after taking cognizance, directed the office to issue notice to all the concerned parties. Notice was made returnable on 25th July, 2014 and office was directed to make paper book. Thereafter the matter appeared time to time on the board. Notice were served to the concerned respondents. Today, the appearance was filed by the learned counsel for respondent nos. 4, 6, 8 and 10. It is informed that all other respondents though served, have not filed appearance.

3. The Trial Courts have to conduct the trials or the proceedings

as per the provisions of the Civil Manual so also the learned Judge is expected to pronounce the judgment after dictating the reasons. The Judge has pronounced the verdict without giving dictation or reasons, which amounts to deviation from the provisions of Civil Manual. It is the right of the parties to know the reasons on which the suit is either decreed or dismissed. In the absence of the reasoning, one word order or pronouncement cannot be treated as judgment in a suit which is tried at full length. The learned Judge has not even dictated the facts of the case or even the points on which his decision was based. Under such circumstances, the parties have nothing before them to challenge the order of either decreeing the suit or dismissal of the suit. The parties cannot lose their statutory right of appeal and, therefore, it is necessary to re-argue the matter by conducting the fresh trials of the suits and also hear the Applications. Hence, I allow all these three Civil Revision Applications by passing following order:

- (i) The order dated 27th March, 2014 of dismissal of R.C.S. No. 152 of 2012, order dated 27th March, 2014 of dismissal of Miscellaneous Application No. 67 of 2011 and order dated 28th March, 2014 of decreeing R.C.S. No. 281 of 2002 are hereby quashed and set aside. All these

three matters are restored to their original status of arguments before the learned Civil Judge Senior Division, Nilanga, District Latur. These three matters are to be re-argued afresh;

- (ii) The learned Presiding Officer of the Court shall issue fresh notices to all the concerned parties to seek their appearance before the Court;
- (iii) The counsel who appeared earlier and argued the matter are also to be informed by sending notice by the trial Court;
- (iv) The parties shall appear before the trial Court, Nilanga on 25th June, 2018 at 11 a.m.;
- (v) The trial Court thereafter shall re-hear the arguments on the basis of the evidence which was previously recorded by the earlier Judge;
- (vi) After hearing the matters, the judgments are to be dictated and delivered. All this exercise is to be conducted and completed on or before 31st October, 2018.

(MRIDULA BHATKAR, J.)