

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

919 SECOND APPEAL NO.394 OF 1994

RAMANLAL VEERCHAND GUJRATHI.

VERSUS

VENISHANKAR UMASHANKAR JOSHI.& OTHERS.

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Advocate for L.Rs. of appellants : S/Shri Mantri Ramesh R. and Sancheti R.R.

Advocate for Respondent nos.1A-3,1A-4,1D,1H,1G, 1I, 1B-A to 1B-C, 1A(1) to 1A(4), 1B(A) to 1B(C) : Shri S.V. Mundhe

CORAM: V.L. ACHLIYA, J.

DATE: 31.07.2019

PER COURT :

1] The appellant no.1E - Girish Ramanlal Shah is present alongwith his Advocate. The respondent no.1I i.e. Varshaben Deepakkumar Bhat is present alongwith her Advocate.

2] Learned counsel for the parties tendered consent terms recorded between the parties. The consent terms are taken on record and marked as 'X' for identification.

3] Learned counsel for the appellants submits that the appellant nos.1A to 1D have executed General Power of Attorney in favour of appellant no.1E. In support of the submission, the learned counsel has tendered photo copy of GPA, which is claimed to be executed in favour of

- 2 -

appellant no.1E, which is taken on record and marked as 'Y' for identification.

4] Learned counsel representing respondent nos.1A1 to 1A1.1, 1BA, 1BB, 1BC, 1C, 1D to 1J submits that they are the legal heirs of original deceased respondent no.1 Venishankar Umashankar Joshi as well as his legal heir deceased Jagdish, Hasanmukh and Kanhaiyalal. It is submitted that the said legal heirs other than respondent no.1I have executed registered General Power of Attorney in favour of respondent no.1I – Varshaben Deepak Kumar Bhat empowering her to act on their behalf as well as to compromise the matter.

5] Learned Advocate has tendered photo copy of General Power of Attorney dated 23.6.2017 executed by respondent nos.1A3, 1A4, 1BA, 1BB, 1BC in favour of respondent no.1I and same is marked as 'Z' for identification. He also tendered the General Power of Attorney dated 22.6.2017 executed by respondent nos.1D and 1E in favour of respondent no.1I and same is taken on record and marked as 'Z-1' for identification. The learned counsel also tendered photo copy of General Power of Attorney dated 18.7.2019 executed by respondent

- 3 -

nos.1AA and 1C in favour of respondent no.1I. Same is taken on record and marked as 'Z-2' for identification. Learned counsel has produced photo copy of the General Power of Attorney dated 15.7.2017 executed by respondent nos.1A1 and 1A2 in favour of respondent no.1I. Same is taken on record and marked as 'Z-3' for identification. Learned Advocate also tendered photo copy of General Power of Attorney dated 11.7.2017 executed by respondent no.1F Leena Suhas Joshi in favour of respondent no.1I. The copy is taken on record and marked as 'Z-4' for identification.

5] The learned counsel for the appellants has filed Purshis and submits that the respondent no.2 Dagdu Pandu Sandanshiv as well as his heirs the respondent nos.2A and 3 Laxmibai has not appeared before trial Court. In the suit itself, the plaintiffs have deleted the name of Laxmibai. The Purshis filed is taken on record and marked as 'Z-5' for identification.

6] The learned counsel for the parties submit that the parties have amicably settled the matter. They identify the respective parties. It is further submitted that the consent terms are duly verified before the

Registrar (Judicial).

7] The appellant no.1E – Girish Ramanlal Shah admits his signature on the consent terms and submits that he has signed the same for himself and as a constituted attorney for appellant nos.1A to 1D. He admits that the contents of the consent terms are recorded truly and as per the settlement reached between the parties. The appellant no.1E is identified by his Advocate.

8] The respondent no.1I – Varshaben Deepak Kumar Bhat is personally present in Court and identified by her Advocate. She admits her signature on the consent terms and submits that she has signed the same for herself and on behalf of respondent nos.1A1 to 1A4, 1BA, 1BB, 1BC, 1C, 1D to 1H, 1J as their constituted attorney. She further submits that in terms of compromise, she has received eight different cheques of Rs.5,00,000/- each drawn and she has handed over the same to respective respondents. She submits that she was not forced to enter into settlement and the settlement is reached without any pressure.

9] The compromise between the parties appears to be

- 5 -

genuine and made with an intention to put the litigation to an end. The parties present are identified by their respective Advocates. The Advocates representing appellants and respondents have also signed the terms of compromise. Hence, the following order:-

O R D E R

A] The appeal is dismissed as against Laxmibai Devichand Salve — respondent no.2.1 and respondent no.3.

B] The appeal is disposed of in terms of consent terms / compromise marked as 'X' for identification only to the extent of parties to consent terms / compromise.

C] Decree be drawn up accordingly.

D] In view of disposal of appeal, pending Civil Applications stand disposed of in terms of disposal of appeal.

(V.L. ACHLIYA, J.)