

IN THE HIGH COURT OF BOMBAY AT GOA.

MISC. CIVIL APPLICATION NO.608 OF 2019

Janet Anne Furtado, Rep. By Const.,
Wayne Michael Cowley and 4 ors., ... Petitioners.

Versus

Abel Jacinto Ludovico Socorro
Costa Furtado, through P.O.A.,
Jacinto Barreto Miranda, ... Respondent.

Mr. Rohit Bras De Sa and Ms. V. Shet, Advocates for the applicants.
Mr. R. G. Ramani, Advocate for the original appellant.
Mr. C. A. Coutinho, Advocate for the original respondent nos.1 to 5.

Coram:- DAMA SESHADRI NAIDU, J.

Date:- 4th December, 2019.

P.C.

The respondent nos.1 to 5, as the plaintiffs, filed Special Civil Suit No.40/2002/II against the appellant and the 6th respondent. Amongst other things, the plaintiffs wanted to have a declaration that the sale deed, dated 23.7.2001, is void. They also wanted the Trial Court to cancel the sale deed and to restore their possession.

2. On 17th August 2009, the Trial Court decreed the suit. Aggrieved, the first defendant, who is the vendor, filed Regular Civil Appeal No.161/2009, which came to be dismissed on 17.7.2010. Further aggrieved, the first defendant filed this Second Appeal on 5.1.2011. This Court admitted that appeal.

3. After about 17 years, the applicants have filed this intervention

application in MCA No.608/2019. They want to come on record as the respondents.

4. The learned counsel for the applicants submits that the applicants and the appellants are co-owners. In fact, in a suit between them, which ended in a compromise, the rights of both the parties stand declared. According to him, the outcome of the Second Appeal will certainly affect the applicants' co-ownership in the suit property. So, he asserts that the applicants be brought on record as the additional respondents.

5. The learned counsel for the respondent nos.1 to 5, who were the plaintiffs in the suit, has no objection. On the other hand, the appellant, that is the original vendor, objects. According to him, the applicants are not the necessary parties.

6. Heard Shri Rohit Bras D'Sa, the learned counsel for the applicants; Shri R. G. Ramani, the learned counsel for the original appellant; and Shri C. A. Coutinho, the learned counsel for the original respondent nos.1 to 5.

7. Indeed, the litigation began in 2002, and the nature of the suit and the reliefs sought amply reveal that it is judicial proceedings *in personem* rather than *in rem*. That is, the judgment and decree in the suit will bind only the parties and no one else. If the applicants have any right in the property, it remains unaffected so long as they are not parties to the proceedings the respondents 1 to 5 have initiated.

I see no valid reason for the applicants to come on record after 17 years of litigation; perhaps it amounts to their meeting the litigious trouble halfway. No need. Under these circumstances, I hold that the suit, which is now in the form of Second Appeal, does not affect the applicants' rights. And whatever right they have over the suit property, that remains unaffected. With these observations, I close the intervention application.

DAMA SESHADRI NAIDU, J.

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