

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 397 OF 2014

BALKRISHNA SADASHIV BANDEKAR AND
L. S. BANDEKAR (DECEASED) BY
THEIR LEGAL REPRESENTATIVES

... Petitioners

Versus

KAMALA SITARAM PARAB @ KAMLA
SITARAM MADURKAR AND 5 ORS.,

... Respondents

Mr. Ashwin D. Bhobe, Advocate for the Petitioners.

Mr. J.J. Mulgaonkar, Advocate for Respondent Nos. 3 and 5.

Coram:- C. V. BHADANG, J.

Date:- 14th October, 2019

P.C.

The challenge in this Petition is to the concurrent orders passed by the Courts below, declaring the respondent nos. 1 to 6 as agricultural tenant in respect of the suit property. This declaration was given in a reference made by the Civil Court, which arose out of the civil suit filed by the petitioners.

2. Mr. Bhobe, the learned Counsel for the petitioners pointed out that in the meantime, Regular Civil Suit No. 78/1968, out of which, the tenancy reference arose, has been dismissed, by judgment and order dated 05.02.2013. He submits that an application for recall of the said order, is filed by the petitioners, which is pending before the Trial Court.

3. Mr. Mulgaonkar, the learned Counsel for the respondent nos. 3 and 5 pointed out that the suit has been dismissed on merits and therefore, the application for recall of the order may not be maintainable. He further submits that the suit itself having been dismissed on merits, nothing would survive in the present Petition.

4. I have considered the submissions made. In the present Petition, it is not necessary to go into the question, whether the application as framed and filed for recall, is maintainable or not. It is for the Trial Court to decide, if it is pending, on its own merits and in accordance with law. However, for the present, the suit itself having been dismissed, the present Petition is disposed off, with liberty to the petitioners to renew the challenge, in the event, if they succeed in their challenge to the judgment and decree passed in Regular Civil Suit No. 78/1968.

C. V. BHADANG, J.

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