

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 647 OF 2018**

Mr. Anant C. Kamat, 80 years of age, s/o
 Chandru Kamat, r/o H. No. 4, Parwada,
 Assonora, Bardez-Goa.

.... Petitioner

Versus

1. Dhaktu Vishnu Gaokar, deceased through LRs.
- (a) Govind Dhaktu Gaokar, major of age,
- (b) Ashok Dhaktu Gaokar, major of age,
 Both r/o H. No. 526, Latambarcem,
 Bicholim-Goa.
2. Navso Narayan Narulkar, major of age,
3. Pandurang Krishna Gawas, major of age,
4. Rajan Anant Gawas, major of age,
5. Ankush Datta Parab, major of age,
6. Prakas Parab, major of age,
7. Ganesh Parab, major of age,
8. Shivram Parab, major of age,
 All r/o Tirodi wada, Pirna, Bardez, Goa.
9. Pundalik Krishna Gawas (since deceased)
 - a. Sadanand Pundalik Gawas, major of age, son of deceased,
 - b. Dayanand Pundalik Gawas, major of age, son of deceased,
 - c. Krishna Pundalik Gawas, major of age, son of deceased,

All above are residents of House No. 54, Devulwada, Wadaval, Latambarcem, Bicholim, Goa.
10. Pratap Singh Wamanrao Rane Sardessai, H. No. 872/47, Vijaynagar, Alto Porvorim (Torda), Bardez, Goa.
11. Mr. Udaysingh Wamanrao Rane Sardessai, r/o H. No. 53, Raj Vihar, Phase-1, Aquem, Alto Margao.

12. Power Grid Corporation of India Ltd. (a
Govt. of Indian Enterprises) Respondents

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

Ms. Ashwini Araujo, Advocate for the Respondent Nos. 1(a) and 1(b).

Respondent No. 10 in person.

CORAM : C.V. BHADANG, J.

DATE : 4th February, 2019.

ORAL JUDGMENT:

By consent of parties, the petition is taken up for final disposal at the stage of admission.

2. I have heard Mr. Bhobe, the learned Counsel for the petitioner, Ms. Araujo, the learned Counsel for the respondent nos. 1(a) and 1(b) and the respondent no. 10 in person, who alone is the contesting respondent. The respondent no. 12 is a formal party.

3. There is a dispute as to the apportionment of compensation between the parties, pending before the learned Principal District Judge at Panaji, under Section 16(4) of the Indian Telegraph Act.

4. At the stage when the arguments were being heard by the learned Principal District Judge, an application (Exhibit-238) came to be filed by the petitioner, seeking production of the following documents:

(i) Application dated 10-01-2018 seeking certified copy of the list of assets dated 05-07-1999.

(ii) Certified copy of the list of assets dated 05-07-1999.

(iii) Application dated 10-01-2018 seeking certified copy of the judgment, order and decree dated 19th September, 1995 passed in Special Civil Suit No. 49/1985 passed by the Hon. Civil Judge Senior Division at Bicholim and

(iv) Certified copy of the judgment, order and decree dated 19th September, 1995 passed in Special Civil Suit No. 49/1985 passed by the Hon. Civil Judge Senior Division at Bicholim.

5. During the course of the arguments at bar, the petitioner, has restricted the production of documents at serial nos. (ii) and (iv) above, namely, the certified copy of the list of assets dated 05.07.1999, filed in inventory proceedings before the Senior Civil Judge at Bicholim and certified copy of the judgment and order and decree dated 19.09.1995, passed in Special Civil Suit No. 49/1985, passed by the learned Senior Civil Judge at Bicholim. Mr. Bhohe, the learned Counsel for the petitioner states that the petitioner does not intend to lead any oral evidence, in the event, the production is allowed.

6. All other parties, except respondent no. 10 have given no objection for such production. The application was opposed by the respondent no. 10, *inter alia* on the ground that the application was belated and the petitioner was aware of the documents, as the inventory proceedings are of the year 1999 and the decree in the civil suit is of the year 1985.

7. The learned Principal District Judge by an order dated 16.04.2018 has disallowed the production, on the ground of delay and on the ground that the petitioner has not shown relevancy of the document.

8. On hearing the learned Counsel for the petitioner and the respondent no. 10 in person, I find that production of the documents can be allowed. Admittedly, the petitioner was not a party to the inventory proceedings or the civil suit. The respondent no. 10 has indeed placed reliance on the order passed in the inventory proceedings. What is now contended on behalf of the petitioner is that as per the original list of assets filed on 05.07.1999, the property in respect of which the dispute as to apportionment arises was not listed as one of the items, which was subsequently added. Considering the fact that the respondent no. 10 himself, is relying on the inventory

proceedings, in which the petitioner was not a party, the production has to be allowed.

9. The respondent no. 10 has placed reliance on the decision of the Supreme Court in the case of **Ram Rati Vs. Mange Ram (D), Through LRs & Others (2016) 11 SCC 296** and **M/s Bagai Construction Vs. M/S Gupta Building Material Store (2013) 14 SCC 1**, the decision of this Court in the case of **Ashok Lalta Pandey Vs. Zarina Abdullah Janai** (Writ Petition No. 8808/2015 decided on 30.01.2018) and **Francisco Milagres Colaco & Another Vs. Mohandas Damodar Dhaimode & Another** (Writ Petition No. 139/2014 decided on 14.08.2014), the decision of Delhi High Court in the case of **Gold Rock World Trade Ltd. Vs. Veejay Lakshmi Engineering Works Ltd. 2007 SCC Online DEL 1140** the decision of Allahabad High Court in the case of **Hoti Lal & Others Vs. A.D.J. & Others 2006 (1) AWC 690** and the decision of the Karnataka High Court in the case of **M/s Cimec Enterprises Vs. M/s Sree Gururaja Enterprises Pvt. Ltd. & Others 2014 SCC Online KAR 2194**, which in my considered view, turned on their own facts. The question whether, the production of any document is to be allowed or not, would depend upon facts and circumstances of each case.

10. Considering the overall circumstances, the following order is passed:

ORDER

- (i) The petition is allowed.
- (ii) The impugned order is hereby set aside.
- (iii) The application (Exhibit-238) is partly allowed to the extent of production of documents at serial nos. (ii) and (iv) above.
- (iv) Needless to mention that this Court has not expressed any opinion as to the effect of the said documents on the rival claims of the parties, which will be considered by the learned Trial Court in accordance with law.
- (v) The petition is disposed of in the aforesaid terms, with no order as to costs.

C. V. BHADANG, J.

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