

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
MISC. CIVIL APPLICATION NO.1012 OF 2019
IN
WRIT PETITION NO.410 OF 2017

Pandharinath Laxman Mapari & Anr. Applicants.

Versus

Yeshwant S. Madkar and others. Respondents.

Mr. Dhaval D. Zaveri, Advocate for the Applicants.

Mr. Priyanka Kamat, Additional Govt. Advocate for original Respondents No.1 to 3.

***Coram : M.S. Sonak &
C.V. Bhadang, JJ.***

Date : 19th November, 2019.

P.C.:-

The Applicants seek modification of Clause (2) of our order dated 4th September, 2019, which reads as follows :

“2. It is made clear that the fees/remuneration payable to the adjudicator shall be borne by the petitioners and the private respondents in this petition in equal portion. This means that the petitioners will bear 50% of the fees and the private respondents will bear the balance 50% of the fees.”

2. Mr. Zaveri points out that the order dated 4th September, 2019 is in furtherance of the consent order made on 29th August, 2018 by this Court. He submits that Clause (XVII) of the consent order provides that the fees payable to the Adjudicator and the

expenses incurred by the Adjudicator in performing such functions will be borne out of the funds of Shree Rudreshwar Devasthan.

3. On the aforesaid basis, Mr. Zaveri submits that clause (2) of the order dated 4th September, 2019 warrants modification. He points out that the Applicants are pensioners and, therefore, they should not be made to bear even 50% of the expenses necessary for adjudication, *inter alia*, of their claims. The order dated 4th September, 2019 was made because there was some issue relating to payment of fees to the earlier Adjudicator. There were also issues where the proceedings before the Adjudicator were being prolonged from time to time. Accordingly, it was ordered that even the private parties who are seeking adjudication with regard to their claim, must be called upon to bear at least 50% of the fees of such adjudication. It is further because this Court found that it would not be proper to spend the amounts entirely from the funds of the Devasthan for the purpose of adjudicating the *inter se* disputes on the issue of membership or otherwise.

4. Since, there is no variation in the aforesaid circumstances based merely upon clause (XVII) of the consent order which was made on 28th August, 2018, it is not possible to accede to the request of the Applicant.

5. This application for modification is consequently dismissed.

C.V. Bhadang, J.

M.S. Sonak, J.