

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 265 OF 2019
IN
CIVIL REVISION APPLICATION (ST) NO. 24533 OF 2015
WITH
CIVIL APPLICATION (ST) NO. 24537 OF 2015

Karamshi A. Patel and ors. .. Applicants
vs.
Vasantibai L. Dharamshi and ors. .. Respondents

Mr. N. D. Jaywant i/b Mr. Shailesh Shukla for the Applicants.
Mr. R.D. Vora for the Respondents.

CORAM : R. G. KETKAR, J.
DATE : 18th JULY 2019.

P.C. :-

1] Not on board, at the request of Mr. N.D. Jaywant, learned counsel for the applicants, the matter is taken in the production board.

2] Heard Mr. Jaywant, learned counsel for the applicants and Mr. R.D. Vora, learned counsel for the respondents.

3] This application is taken out for (i) condoning the delay in taking out present civil application; and (ii) recalling the order dated 14th June 2019 passed by this Court in Civil Revision Application (St) No. 24533 of 2015 and thereby

restoring the civil revision application. The applicants have further prayed for stay the operation and execution of decree dated 28th November 2010 passed in Appeal No. 248 of 2010 in R.A.E. & R. Suit No. 155/264 of 1999.

4] Mr. Vora strongly opposed for granting any indulgence to the applicants. He has taken me through the orders dated 22nd January 2019, 13th March 2019, 23rd April 2019 and 14th June 2019 passed by this Court.

5] In the order dated 22nd January 2019, the request made on behalf of the applicants to amend the C.R.A. so as to challenge the findings recorded by the Appellate Court in the order dated 28th November 2018 and that within two weeks the applicants will amend the CRA enclosing therewith order dated 28th November 2018 was recorded. The matter was thereafter heard on 13th March 2019. As the amendment was not carried out, leave to annex the order dated 28th November 2018 was granted. Attention of the Court was invited to the order passed in First Appeal No. 1076 of 2018. Submission of the respondents was that for more than 2 and

½ years the ad-interim order granted on 22nd January 2016 in the first appeal was not continued was recorded. At the request of the applicants, as and by way of last chance for producing the ad-interim order operating in First Appeal No. 1076 of 2010, the matter was adjourned to 26th March 2019.

6] On 23rd April 2019, Ms Nair appeared on behalf of the applicants and informed the Court that the applicants desire to engage Advocate Mr. Haresh Makwana. She assured that on or before 26th April 2019, Vakalatnama will be filed by Mr. Haresh Makwana on behalf of the applicants. Leave was sought for amending the CRA so as to challenge the finding recorded by the Appellate Court in the order dated 28th November 2018. Assurance was also given that on or before 7th June 2019, amendment will be carried out and amended slip shall be made over to the other side was recorded. In view thereof, the CRA for admission was adjourned to 14th June 2019. In view of assurance given by Ms Nair that Mr. Haresh Makwana will file appearance on behalf of the applicants, Mr. K.K. Pandey was given discharge.

7] The petition was thereafter listed for admission on 14th June 2019. The matter was called out in the morning session, however, none appeared when the matter was called out. It was, therefore, kept in the afternoon session. Ms Nair appeared on behalf of the applicants and submitted that on or before 18th June 2019, Vakalatnama will be filed by Advocate Mr. Haresh Makwana on behalf of the applicants and the amendment will be carried out within one week and the amended slips shall be made over to the other side during that period. In view of the request made by Ms Nair, hearing of the CRA deferred till 27th June 2019. It was made clear that if Vakalatnama is not filed on or before 18th June 2019 as also the amendment is not carried out on or before 21st June 2019 and the amended slips are not made over the other side, Civil Revision Application will stand dismissed without further reference to the Court.

8] Mr.Vora, therefore, submits that despite this indulgence granted to the applicants on several occasions, the orders passed from time time were not complied with. He, therefore, submitted that no case is made out for grant of

any reliefs in the civil revision application.

9] Mr. Jaywant states that Advocate Mr. Shailesh Shukla had filed appearance on behalf of the applicants and on or before 22nd July 2109, amendment in terms of earlier orders will be carried out and the amended slips shall be made over to the other side.

10] In view thereof, Civil Application is allowed in terms of prayer clauses (a),(b) and (c).

11] List Civil Revision Application for admission on 23rd July 2019 in the supplementary board.

12] Mr. Vora states that the respondents will not proceed with the execution of the decree passed in Appeal No. 248 of 2010 in R.A.E.& R. Suit No. 155/264 of 1999 dated 28th November 2010, till the next date of hearing. The statement on instruction is recorded.

13] It is made clear that if compliance is not made, the order dated 14th June 2019 shall stand revived without further reference to the Court.

14] All parties including the Executive Court to act upon an authenticated copy of this order.

(R. G. KETKAR, J.)