

IN THE HIGH COURT OF BOMBAY AT GOA
MISC. CIVIL APPLICATION NO. 150 OF 2020
IN
STAMP NUMBER (APPLICATION) NO.3198 OF 2019

Seema Shamrao Signepurkar & Ors.

... Applicants

Versus

Inacinha Telles & Ors.

... Respondents

Shri Russel R.J. Pinto, Advocate for the Applicants.

Shri S.D. Lotlikar, Senior Advocate with Shri J. Karn, Advocate for the Respondent No.1.

Coram:- DAMA SESHADRI NAIDU, J.

Date:- 24th February 2020

ORAL ORDER :

The review petitioners are the defendants in a suit for eviction, which the plaintiffs lost. Later, the respondents, as the non-suited plaintiffs, filed First Appeal. There, too, they failed. Eventually, they took the matter in Second Appeal. This Court, through its judgment dated 03/06/2019, partly allowed the appeal. Aggrieved, the review petitioners—that is the defendants in the suit and respondents in the appeal—approached the Supreme Court. But Supreme Court dismissed the Special Leave Petition *in limine*. Thereafter, they have filed this review petition with 63 days delay.

2. The petitioners have pleaded that as they had been *bona fide* pursuing their remedy before the Supreme Court, there is a delay of 63

days.

3. In response, the respondents' counsel has contended that nothing prevented the petitioners first to seek review before this Court rather than go before the Supreme Court. According to him, delay on account of the parties being in the Supreme Court cannot be a condonable ground.

4. Indeed, the ground the petitioners pleaded to have the delay condoned may not be convincing; yet, in the interest of justice and to examine whether the judgment suffers from any error apparent on the face of the record, I condone the delay.

5. Now, I turn to the merits of the matter; of course, "the merits" in a review petition is a misnomer. I need to examine whether there is error apparent on the face of the record.

6. The petitioners have contended that though the suit has been barred by limitation, this Court in the Second Appeal has wrongly held that it was within limitation. According to the learned counsel for the petitioners, even on the question of adverse possession and easement, this Court has erred. Finally, he has contended that even the judgments this Court has relied on in the Second Appeal have no application to the facts of the case.

7. Heard Shri Russel R.J. Pinto, the learned counsel for the review petitioners; and Shri S.D. Lotlikar, the learned Senior Counsel with Shri J. Karn, the learned counsel for the respondents no.1 to 5.

8. I reckon the question of limitation, adverse possession, and

easement, even if the findings were to be wrong, could not be said to be errors apparent on the face of the record, nor is the alleged misapplication of the precedential law in any manner entails the petitioners to a review.

Under these circumstances, I find no merit in the review petition, much less any error apparent on the face of the record. I accordingly dismiss the review petition.

DAMA SESHADRI NAIDU, J.

NH