

IN THE HIGH COURT OF BOMBAY AT GOA
CIVIL REVISION APPLICATION NO.9 OF 2020

VASUDEV RAMNATH PARAB

AND 7 ORS.,

... Applicants

VS

THE STATE OF GOA, THR.

CHIEF SECRETARY AND 17 ORS.,

... Respondents

Mr. J. A. Lobo, Advocate for the Applicants.

Mr. S. P. Munj, Addl. Government Advocate for Respondent Nos. 1 to 3.

Mr. Jatin Ramaiya, Advocate for Respondent No.4.

Coram : M. S. SONAK, J

Date : 17th February, 2021

P.C.

Heard Mr. J. A. Lobo, learned counsel for the Applicants and Mr. J. Ramaiya, learned counsel for the Respondent No.4.

2. Leave is granted to indicate the Applicant No.6 and Respondent No.6 as deceased in the cause title. Amendment to be carried out forthwith.

3. The challenge in this revision application is to the order dated 27.12.2019 by which the learned Trial Judge has dismissed the Applicants' application under Order 7 Rule 11 of CPC for rejection of the plaint.

4. Having heard the learned counsel for the parties, I do not think that this is a fit case to exercise revisional jurisdiction. This is because most of the reliefs claimed in the suit are reliefs which ought to have been legitimately sought for by filing a suit itself. In so far as the orders made by the Statutory Authorities are concerned, there are clear averments about lack of jurisdiction and in some cases there are even averments about fraud which was practised by the private parties based on which the Statutory Authorities made orders in question.

5. Therefore, it cannot be said that the plaint itself was required to be rejected or in any case a part of the plaint was required to be rejected. The learned Trial Judge has considered all the aspects of the matter in substantial details and there is no case made out for exercise of revisional jurisdiction.

6. The circumstance that the impugned order is not being interfered with does not mean that the Applicants are shut down from raising any contentions as permissible by filing written statement. On merits, it is always open to the Applicants to demonstrate why the suit should be dismissed, *inter alia* on the ground that the civil Court lacks jurisdiction to grant some of the main reliefs prayed for in the suit. However, it will not be appropriate to exercise revisional jurisdiction or to reject the plaint in part, in the facts and the circumstances of the present case.

7. Mr. Lobo then points out that till date the Applicants have not filed their written statement and therefore, 30 days time may be granted to the Applicants to file their written statement.

8. Since, the Applicants were pursuing their application under Order 7 Rule 11 of CPC, it is possible that they were advised not to file written statement in time. This advise may not have been entirely right since it is pointed out by Mr. Ramaiya that the Civil Court has made it clear that the written statement will have to be filed irrespective of pendency of application under Order 7 Rule 11 of CPC. However, in the peculiar facts of this case, it is possible that the parties went by advise given to them and written statement was not filed.

9. In these peculiar facts, the Applicants by way of last opportunity are granted liberty to file their written statement within 30 days from today. The Applicants to do so without even waiting for certified copy of this order.

10. If however the Applicants fail to file their written statement within a period of 30 days from today then the consequences of such non filing shall follow and the Applicants will not be entitled to claim any further indulgence in this matter.

11. Therefore, with liberty as aforesaid, this Civil Revision

Application is dismissed. There shall be no order as to costs.

12. All concerned to act based on the authenticated copy of this order.

M. S. SONAK, J

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TARI AMRUT
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