

Meena

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.323 OF 2021

JAYASHRI N RAJEBHOSALE @ BIMABAI ...Petitioner
RAUJI RANE SARDESSAI REP. BY ATT.
VIKRAMSINH NANASAHAB RAJEBHOSALE

Versus

STATE OF GOA, THR. THE CHIEF
SECRETARY AND 7 ORS ...Respondents

Mr. Dinesh Naik, Advocate for the Petitioner.

**Mr. S.P. Munj, Additional Government Advocate for the
State-Respondent Nos.1 and 2.**

Mr. J. Godinho, Advocate for the respondent Nos.3 and 4(b).

CORAM: MANISH PITALE, J

DATED: 5th October,2021

P.C.

1. By this Writ Petition the petitioner (original plaintiff) has challenged the order dated 06/09/2021 passed by the Court below whereby the evidence of the plaintiff have been closed on the ground that they exhausted more than three adjournments long ago for recording of evidence of the plaintiff.

2. The Court below has made an observation in the impugned order that by a direction of this Court the suit is to be disposed of in a time bound manner. This is with reference to an order dated 15/10/2020 passed by this Court in Appeal From Order No. 26 of 2017 wherein this Court directed that the aforesaid suit be disposed of within one year from 15/10/2020.

3. It appears that the evidence of the first witness of the plaintiff was recorded on 13/08/2021. Thereafter, the evidence of the second and last witness of the plaintiff was to be recorded. It appears that the Court below gathered an impression that the plaintiff was delaying the matter and on that ground, the impugned order appears to have been passed.

4. The learned Counsel appearing for the petitioner invited attention of this Court to the Roznama. It was submitted that the impression gathered by the Court below is not borne out by the Roznama and the admitted facts. Be that as it may, it seems that on few occasions adjournment was indeed sought by the plaintiff and since this Court has directed that the suit shall be disposed of in a time bound manner, it can not be said that the Court below committed grave error in passing the impugned order.

5. Nonetheless, since the endeavour of the Court ought to be to decide the matter after giving sufficient opportunity to the parties to adduce evidence, in the interest of justice, this Court issued notice on 20/09/2021 in the present Writ Petition.

6. All the respondents have been served and some of the respondents have entered appearance through Counsel.

7. The record also shows that there is an interim order operating against some of the respondents restraining them from undertaking further construction in the suit property and therefore, to that extent there is urgency in the matter. As per the time limit granted by this Court by the aforesaid order dated 15/10/2020 passed in Appeal From Order No.26 of 2017, the

last date is fast approaching and an appropriate direction can be granted in the facts and circumstances of the present case. This is subject to the plaintiff ensuring that the second witness will be kept ready for recording evidence on the next date on the proceedings before the Court below on 08/10/2021.

8. In view of the above, the Writ Petition is allowed. The impugned order is set aside, on the condition that the petitioner (original plaintiff) shall ensure that the second witness for the plaintiff is kept ready for recording of evidence on 08/10/2021. The Court below shall immediately take up the proceedings for recording of evidence of the said witness. Thereafter, the witness of the original defendants shall be examined.

9. Since, the process may take some time it would be in the interest of justice that the time period for disposing of the suit is extended.

10. In view of the above, the Writ Petition is allowed as indicated above and the Court below is granted time till 31/12/2021 to dispose of the suit.

11. All concerned to act on the basis of an authenticated copy of this order.

MANISH PITALE, J.