

IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL REVISION APPLICATION No.48 OF 2019

Assisa Fatima Terezinha Filomena Ribeiro @
Fatima Ribeiro

... Applicant.

V/s.

Avdhut Bhagwant Naik And 4 Ors.

... Respondents.

Mr. U. R. Timble, Advocate for the Applicant.

Mr. A. Naik, Advocate for the Respondent No.1 and 3.

Mr. Abhijit Gosavi, Advocate for the Respondents No. 2 and 4.

Coram: M. S. SONAK, J.

Date: 13th July, 2021

P.C.:

The challenge in this revision is to the order dated 29.04.2019 by which the respondents No.2 and 4 have been directed to be impleaded as defendants in Regular Civil Suit No.67/2014/A.

2. At the outset, it is necessary to make it clear that as against the impugned order the civil revision application is not the appropriate remedy, more so, after the amendment to Section 115 of the CPC.

3. Be that as it may, the petitioner has filed a suit seeking declaration that the defendants have no right to the access and on the

contrary, it is the petitioner-plaintiff who has the right to free and open user to the access as described in the suit property.

4. The petitioner, has relied upon certain NOCs issued by respondents No.1 and 3 who are the husbands of respondents No.2 and 4. Since, a declaration is sought for and it is the case of respondents No.2 and 4 that such NOCs do not bind them, it cannot be said that the respondents No.2 and 4 are not even proper parties.

5. However, it is also necessary to note that the respondents No.2 and 4 applied for impleadment quite belatedly and did not even bother to explain the delay. The learned Trial Judge has also not imposed any costs upon the respondents No.2 and 4 because the impleadment at the late stage is bound to delay the proceedings in the suit.

6. Mr. Gosavi, the learned Counsel for the respondents No.2 and 4 however stated that these respondents will not file any fresh written statements but will adopt the written statements filed by their husbands, i.e. respondents No.1 and 3. If this statement is accepted, then, there will be no question of recasting the issues. The stage for the defence to lead evidence has not yet arrived.

7. Having regard to the aforesaid statements as well as the circumstances, there will be no substantial delay if, the impugned order is not interfered with. Besides, suitable directions can also be issued to the trial court to expeditiously dispose of the suit itself.

8. Accordingly, this revision application is not entertained but the learned trial Judge is directed to dispose of the Regular Civil Suit No.67/2014/A as expeditiously as possible and, in any case within a period of six months from the date the parties file authenticated copy of this order before the learned trial Judge.

9. The learned Counsel for the parties have assured this Court that they will co-operate with the learned trial Judge in the matter of expeditious disposal of the suit.

10. The civil revision application is disposed of in the aforesaid terms.

11. The parties to appear before the trial Court on 26.07.2021 and file authenticated copy of this order.

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

M. S. SONAK, J