

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5693 OF 2021

1.Khanderao Pandurang Sarak & Anr. ... Petitioners

Vs.

1.Dagadu Dhondi Venupure & Ors. ... Respondents

Mr.Vaibhav R.Gargade with Mr.Vijay Mangarule, for the Petitioners.

Mr.PP. Pujari, AGP for Respondent nos.6 & 7.

Mr.Tushar Sonawane with Mr.Pankaj Deokar, for Respondent Nos.1 to 5.

CORAM : G.S. KULKARNI, J.

DATE : 11st October, 2021

P.C.:

1. Learned Counsel for the petitioners and respondent nos.1 to 5 have tendered the consent terms arrived between the parties which are executed on 25 August 2021 before Shri.Mahendra J.Nalawade, Notary Public who has put his stamp and has also certified the execution before him.

2. Mr.Gargade, learned Counsel for the petitioners states that the petitioners are present in the Court. Mr.Sonawane, learned Counsel for respondent nos.1 to 5 submits that respondent nos.2, 3, 4 are present as also wife of respondent no.5 is also present in the Court.

3. Learned Counsel for the parties state that respondent no.2-- Maruti Dagadu Venupure has been granted power of attorney by respondent no.1-Dagadu Dhondi Venupure, who is a senior citizen who

would not be in a position to leave the house. A copy of the power of attorney dated 23 September 2021 is placed on record by the learned Advocate for respondent nos.1 to 5 which is marked “A” for identification.

4. The consent terms are signed by petitioner no.1 and petitioner no.2 as also their thumb impressions are affixed. They are signed on behalf of respondent no.1 by respondent no.2-power of attorney holder as noted above and by respondent no.2 himself in his personal capacity, and are independently signed by respondent nos.3 to 5. They are also initialed by their respective Advocates. The signatures of the parties on the consent terms are identified by their respective Advocate as well. Parties do not dispute the signatures on the consent terms.

5. Mr.Sonawane has stated that respondent no.1 who has issued a power of attorney in favour of respondent no.2- Maruti Dagadu Venupure, has also made a separate affidavit dated 29 September 2021 which is affirmed before Mr.Dipak V.Choudhari, Notary bearing his signature and stamp. His affidavit states that he has read the consent terms and he is agreeable to all the terms and conditions as set out in the consent terms and that because of his old age, he would not be able to attend the hearing of this Case. Such affidavit is taken on record and marked as “B” for identification.

6. Mr.Sonawane has submitted that respondent no.5-Santosh Bhau Venupure who has also signed the consent terms, is not keeping well. He has also made a separate affidavit dated 24 September 2021 before the Executive Magistrate, Bhore, District Pune, stating that he is not keeping well and hence, he is unable to attend the Court, and that he is agreeable to the terms and conditions as set out in the consent terms as

arrived between the parties. Such affidavit is taken on record and marked “C” for identification.

7. Learned Counsel for the petitioners states that he has instructions to make statement that his client is satisfied in regard to the affidavits as placed on record by respondent nos.1 and 5 as also on the execution of the consent terms on behalf the respondents. He has stated that his clients do not have any grievance and accept the consent terms and that the petition be disposed of in terms of the consent terms.

8. In the aforesaid circumstances, there appears to be no dispute that as the parties have wholeheartedly entered into a settlement as per the consent terms tendered. The consent terms are accordingly taken on record and marked “X” for identification. The petition is accordingly disposed of in terms of the consent terms. No costs.

9. Needless to observe that if the amount as agreed in paragraph 1(a) of the consent terms, is not received by the petitioners, in that event, it will be open to the petitioners to adopt appropriate proceedings.

10. Parties to act on authenticated copy of this order.

(G.S. KULKARNI, J.)