

Andreza

IN THE HIGH COURT OF BOMBAY AT GOA
CIVIL REVISION APPLICATION NO. 9 OF 2021

Chandrakant Chodankar	... Applicant
<i>Versus</i>	
Pallavi Gajanad Bhosle & 9 Ors.	... Respondents

Mr. Ryan Menezes, Advocate *for the Applicant.*

Mr. S. M. Walvaikar, Advocate *for the Respondent nos. 1 to 6.*

Mr. C. Padgaonkar, Advocate *with Ms. Apeksha Kalokhe,*
Advocate for the Respondent nos. 7 to 9.

Mr. S. D. Padiyar, Advocate *with Mr. P. Shirodkar, Advocate for*
the Respondent no.10.

CORAM:	A. K. MENON, J
DATED:	23rd March 2022

ORAL ORDER

1. By this Revision Application, the Applicant assails an Order dated 30.10.2021, whereby the Trial Court rejected an application under Section 151 of the Code of Civil Procedure, seeking dismissal of the suit on the basis that the suit pertained to elections which were to be conducted on 03.06.2018. That the elections were held, the date having passed. The reliefs in the plaint could not be granted by the

trial Court. The suit had become infructuous and, therefore, the suit ought to be dismissed.

2. When the application, Exhibit 50 was filed, the Applicant was the Intervener. He has subsequently been impleaded as party-Defendant to the suit, a fact which is not controverted today. However, the application was heard and disposed of as per reasons set out in the impugned Order.

3. Mr. Ryan Menezes has canvassed his client's point of view that the suit had become infructuous since the elections were to be held on 03.06.2018 and as on the date of the application, the relief sought in the plaint could not have been granted and hence the suit should be dismissed. After hearing the parties, the Court has come to the conclusion that the Applicant's contention that the suit is infructuous since elections were to be held on 03.06.2018, was incorrect since the elections are conducted on the basis of an interim order passed by the trial Court. That Order came to be challenged in Special Civil Suit No. 87 of 2018/B before the Appellate Court and thereafter the Court observes that on facts, there was a settlement between the parties which was made an order of the Court on 24.05.2018. The Court therefore concludes that it cannot be said that the suit has become

infructuous. Mr. Ryan has relied upon the decision in the case of *Shipping Corporation Of India Ltd vs Machado Brothers & Ors*¹ in support of his contentions.

4. Having heard the learned Counsel for the Applicant, I am of the view that it is for the trial Court to consider these aspects and having considered the same, the Court has found that he cannot be termed as intervener. The intervener as he then was, the Applicant herein, has since been impleaded as Defendant and is yet to file his written statement and it will always be open to him to move an appropriate application under Order 7 Rule 11 for rejection of the plaint if he so desires.

5. In my view, no case is made out for interference in this review application. Accordingly, revision application is dismissed.

6. In the event the Applicant makes any further application for rejection of the plaint, the same will be considered on its own merits without being influenced by this Order.

A. K. MENON, J

¹ 2004(11) SCC 168