

Niti

IN THE HIGH COURT OF BOMBAY AT GOA

**SECOND APPEAL NO.21 OF 2021
AND
CIVIL APPLICATION NO.48 OF 2021**

HANSA BALKO PATIL
(DEC) THR. HER LRS.

... APPELLANTS

Versus

MARTHA SOLES (DELETED
BEFORE THE AD-HOC
DISTRICT JUDEJE-1 (FTC)
BY ORDER DTD. 18/7/2017)
AND ANR.

.... RESPONDENTS

**Mr. V.A. Lawande with Mr. K. Naik, Advocates for the
*Appellants.***

Mr. Amey Phadte, Advocate for Respondent No.2.

CORAM: M. S. SONAK, J.

DATE : 10th NOVEMBER 2022

ORAL ORDER :

1. Heard learned Counsel for the parties.
2. The appellant has already filed an application before the Mamlatdar seeking declaration of mundkarship as undertaken by her on 07.10.2022.

3. The Mamlatdar of Bardez before whom this application is filed is directed to dispose of the same within six months from the date the parties file an authenticated copy of this order. Both parties must co-operate with the Mamlatdar and not seek any unnecessary adjournment. In particular, the appellant must not delay the matter on any ground. The Mamlatdar should also not grant any unnecessary adjournments to the appellant.

4. Learned Counsel for the parties agree that until the Mamlatdar disposes of the application for declaration of mundkarship the impugned decrees made in Regular Civil Suit No.86/2001/C and Regular Civil Appeal No.120/2016 will not be put into execution by the decree holder. However, if the appellant fails to obtain a declaration of mundkarship or if the Mamlatdar determines the area of the suit structure as being less than what is presently determined at the site, the decrees will have to be executed in accord with law.

5. If the decision of the Mamlatdar is against the appellant, the appellant will undoubtedly have the liberty to take out further proceedings by way of an appeal, etc. However, the parties under the Act must endeavour to dispose of even these proceedings as expeditiously as possible. Liberty is granted to seek time bound directions if and when the occasion arises.

6. The Mamlatdar, while deciding the issue of declaration should not be influenced by any observations in the impugned decrees or in the orders by which registration was declined to the appellant. The application for declaration will have to be decided on its own merits and in accordance with law. All contentions of all parties on merits are left open for decision by the Mamlatdar.

7. The parties to appear before the Mamlatdar of Bardez on 18.11.2022 at 10.30 a.m. and file an authenticated copy of this order. On this date, the Mamlatdar shall give the next date so that the application for declaration is taken up and disposed of in a time bound manner.

8. Mr. Lawande states that in the course of this week itself, he will furnish a copy of the application filed by the appellant before the Mamlatdar to the learned Counsel for the respondent no.2.

9. The appeal is disposed of in the above terms. There shall be no order for costs. Civil application does not survive the disposal of the Second Appeal.

M. S. SONAK, J.

NITI K
HALDANKAR

Digitally signed by NITI K
HALDANKAR
Date: 2022.11.11
10:02:16 +05'30'