

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.

MISC.CIVIL APPLICATION (REVIEW) No.173/2020 in
Writ Petition No.4739/2018(D)

Ashok s/o Ramchandra Chandpurkar

Vs.

The State Minister of State Excise, MS, and others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri N.L.Jaiswal, Advocate for applicant.

Ms H.N.Jaipurkar, Assistant Government Pleader for non-applicant nos. 1 to 3.

Shri S.W.Sambre, Advocate for non-applicant no.1.

CORAM :- A.S.CHANDURKAR, J.

DATE :- FEBRUARY 18, 2022.

The original petitioner seeks review of the order dated 12.07.2019 passed in Writ Petition No.4739/2018.

The ground raised in the review application is that it has been observed by this Court that the legal heir certificate was revoked in view of the orders passed by the Civil Court dated 30.01.2008. It is submitted that on 30.01.2008 the letter of administration in MJC No. 142/2003 came to be revoked. The legal heir certificate was issued subsequently on 25.05.2017 in favour of the applicant and the same continues to operate even today. It is therefore submitted that since this aspect has been taken into consideration while dismissing the writ petition, a case for review has been made out.

On behalf of the non-applicant no.4 it is submitted that what was accepted by the Civil Court was the compromise between the applicant and the non-applicant no.4 and one of the terms of compromise was to have the letter of administration revoked. However based on that compromise the license was being operated equally by both the brothers.

Heard the learned counsel for the parties and perused the documents on record. On 30.01.2008 the Civil Court accepted the terms of compromise recorded between the parties. Clause A refers to the fact that the present applicant had agreed for revocation of the letter of administration dated 22.03.2004. It is therefore observed that what was revoked was the letter of administration and not the legal heir certificate. The legal heir certificate dated 25.05.2017 is stated to operate even today.

Even if this aspect has been found to be incorrectly recorded, another reason assigned while maintaining the order passed by the Hon'ble Minister was that as per Clauses B and C of the same compromise, the applicant and the non-applicant no.4 had agreed to carry on liquor business together in their joint name. It was for this reason that the Court did not interfere with the impugned order passed in the revision application.

In view of aforesaid, the order passed in Writ Petition No.4739/2018 in the penultimate paragraph is corrected to read that the words "letter of administration" would stand substituted for the words "legal heir certificate". Besides that I do not find any error apparent on the face of record to exercise review jurisdiction. The miscellaneous civil application is therefore rejected.

(A.S.CHANDURKAR, J.)

Andurkar..