

Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

**CIVIL APPLICATION (REVIEW) NO.19/2017
IN
SECOND APPEAL NO.21/2006**

**RAMNATH YESHWANT
PARVOTKAR (DEC), REP.
BY LRS., AND ANR.**

... PETITIONERS

Versus

**NARENDRA PANDURANG
CHATIM AND 3 ORS.**

... RESPONDENTS

Ms Sezette Pereira, Advocate for the Petitioners.

Ms S. Kenny, Advocate for Respondents No.1 and 2.

CORAM: M. S. SONAK, J.

DATED: 21st March 2023

P.C.:

1. Heard Ms Pereira for the review petitioners and Ms Kenny for respondents no.1 and 2.

2. Ms Pereira submits that after the Judgment and Order was made in Second Appeal No.21/2006 the review petitioners have come to possess some documents which, despite due diligence

were not to the knowledge of the review petitioners. She points out that one of the documents is the death certificate of Datta Shet. She points out that the respondents no.1 and 2 had relied upon a Judgment and Decree made by the Trial Court in a suit involving said Datta Shet. Based upon this Judgment and Decree, title was claimed by the respondents no.1 and 2. She submits that since Datta Shet was already dead at the time when this decree was made, the same would amount to a nullity. She submits that this is a good ground for review.

3. Ms Kenny, learned counsel for respondents no.1 and 2 points out that this Court had remanded the matter to the Trial Court. She submits that there is no error apparent on the face of record. She points out that the review petition instituted by Vasant Vital Bhosle (Dec.) and another in the connected Second Appeal No.20/2006 is already dismissed by this Court vide Order dated 02.02.2023. For all these reasons Ms Kenny submits that even this review petition ought to be dismissed.

4. The order dated 02.02.2023 dismissing the review petition in Second Appeal No.20/2006 was because the review petitioners chose not to diligently pursue the review petition after having obtained an interim order. The review petition was dismissed for non-prosecution and the interim order was vacated.

5. Now that this Court has remanded the matter to the Trial Court vide the Judgment and Order dated 07.10.2016 of which review is applied for, this review petition can be disposed of by granting the review petitioners liberty to apply to the Trial Court for production of additional documents which the review petitioners claim were not within their knowledge despite due diligence. Based upon such documents, liberty can also be granted to the review petitioners to urge why no relief should be granted to the original plaintiffs i.e. respondents no.1 and 2. All contentions of the original plaintiffs i.e. respondents no.1 and 2 in this regard can also be kept open. Accordingly, by adopting this course of action and granting the review petitioners as well as the respondents no.1 and 2 liberties as aforesaid, this review petition is disposed of.

6. This Court makes it clear that it has not examined the rival contentions and therefore, if the review petitioners indeed file an application before the Trial Court, the same will be considered and disposed of in accordance with law by giving an opportunity of hearing to the original plaintiffs i.e. respondents no.1 and 2 and the review petitioners.

7. With the above observations this review petition is disposed of. There shall be no order for costs.

8. Misc. Civil Application is also disposed of considering the above liberties granted to the petitioners.

M. S. SONAK, J.

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