

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**SECOND APPEAL NO.424 OF 2021
WITH
INTERIM APPLICATION NO.3677 OF 2021**

Smt. Sulochana Shrikant Shetye
deceased through legal heirs
Shri. Chittaranjan Shrikant Shetye & Anr. ...Appellants
Versus
Vijay Govind Shetye
deceased through legal heirs
Smt. Vaishali Vijay Shetye & Ors. ...Respondents

Mr. S. S. Pakale, i/b. Mr. S. M. Katkar, for the Appellants.

Mr. Valmiky H. Narvekar, for the Respondent Nos. 1A to 1C.

**CORAM : MADHAV J. JAMDAR, J.
DATED : 16th JANUARY 2023**

P.C. :

1. Heard Mr. Pakale, learned counsel appearing for the Appellants and Mr. Narvekar, learned counsel appearing for Respondent Nos. 1A to 1C, who are the contesting Respondents.
2. The Respondent Nos. 2 to 5 are the State Authorities and Respondent Nos. 6, 7 and 8 are the officials of the State Government.
3. Both Mr. Pakale, learned counsel appearing for the

Sonali

Appellants and Mr. Narvekar, learned counsel appearing for Respondent Nos. 1A to 1C, i.e. contesting Respondents state that the Appellants and Respondent Nos. 1A to 1C have settled the dispute. Both of them tendered the Consent Terms. The Consent Terms are taken on record and marked 'X' for identification. The Consent Terms are signed by the Appellants as well as by the Respondent Nos. 1A to 1C. The Appellant No.2 and Appellant No.3 are present in Court. Mr. Pakale states that the Appellant No.1 passed away and Appellant No.2 and Appellant No.3 are the only legal heirs and representatives of the deceased Appellant No.1. The Respondent Nos. 1A to 1C are also present in Court.

4. The Consent Terms also bears signature of the respective Advocates of the parties and they identify the respective signature of Appellants and Respondents. The Appellant No.2, Appellant No.3 and Respondent Nos. 1A to 1C who are present in the Court state that the Consent Terms are arrived at as per the compromise between them. The Consent Terms read as follows:-

CONSENT TERMS

- 1) "The Appellants have filed the above Second

Sonali

Appeal challenging the impugned judgment and order dated 09.08.2021 passed by the Ld. Principal District Judge, Ratnagiri dismissing Regular Civil Appeal No. 61 of 2016 and thereby confirming the impugned judgment and decree dated 02.05.2013 passed by the Ld. Civil Judge Senior Division, Ratnagiri in Special Civil Suit No. 74 of 2011.

2) The contesting parties to the above Second Appeal i.e. the Appellant Nos. 2 and 3 on one hand and the Respondent Nos. 1(a) to 1(c) on the other hand (hereinafter referred to as 'the parties') have arrived at an amicable settlement and are, therefore, desirous of reducing the same into writing by way of consent terms which are reproduced hereunder.

3) The parties have three pending inter-se disputes in total in respect of three different suit lands, which are as under :

- a) Second Appeal No. 424 of 2021, i.e. the above Second Appeal filed in this Hon'ble Court
- b) Regular Civil Appeal No. 7 of 2019 filed by the Appellants before the District Court, Ratnagiri challenging the judgment and decree dated 15.12.2018 passed by the Ld. Civil Judge Senior Division, Ratnagiri in Special Civil Suit No. 11 of 2015

Sonali

c) Special Civil Suit No.46 of 2018 filed by the Respondent Nos. 1(a) to 1(c) in the Court of Civil Judge Senior Division, Ratnagiri

4) In respect of the above Second Appeal, the Appellants agree and undertake to accept and abide by the impugned judgment and decree dated 02.05.2013 passed by the Ld. Civil Judge Senior Division, Ratnagiri in Special Civil Suit No. 74 of 2011. The Appellants accept and acknowledge that the Respondent Nos. 1(a) to 1(c) are alone entitled to withdraw the entire decretal amount of Rs. 17,29,429/- along with interest @ 10 p.c.p.a. from 07.02.2008 to 28.02.2012 which has been granted by the Ld. Civil Judge, Senior Division, Ratnagiri. As per the directions of the Ld. District Court, Ratnagiri, the said decretal amount of Rs. 17,29,429/- was deposited by the State Government and is currently lying in Current Fixed Deposit Account bearing receipt no. 302483 maintained with the Bank of Maharashtra, Gogate College Branch, Ratnagiri. Also, as per the directions of the Ld. District Court, the amount of interest @ 10 p.c.p.a. granted by the Ld. Civil Judge, Senior Division, Ratnagiri in the suit amounting to Rs. 7,02,196/- was also deposited by the State Government and is currently lying in Current Fixed Deposit Account bearing receipt no. 538433

maintained with the Vijaya Bank, Ratnagiri Branch. The said decretal amount as well the amount of interest as explained above has matured over the years during pendency of Regular Civil Appeal No. 61 of 2016 as well as the present Second Appeal. The parties accept and acknowledge that the Respondent Nos. 1(a) to 1(c) shall alone be entitled to withdraw the entire matured amount alongwith the accrued interest, whatever the quantum thereof may be, lying in the said Fixed Deposit Accounts and the Appellants shall have no right to claim any part or share thereof at any point of time under any circumstances whatsoever. Thus, the Appellants agree and undertake to withdraw the above Second Appeal along with the Interim Application filed therein.

5) In respect of Regular Civil Appeal No. 7 of 2019 filed by the Appellants and pending before the District Court, Ratnagiri, the Appellants agree and undertake to accept and abide by the impugned judgment and decree dated 15.12.2018 passed by the Ld. Civil Judge, Senior Division, Ratnagiri in Special Civil Suit No. 11 of 2015. The Appellants accept and acknowledge that the Appellants shall pay the entire decretal amount of Rs.9,48,302.60/- along with interest @ 10 p.c.p.a. from 31.12.2012 to 21.02.2015 which has been granted by the Ld. Civil

Judge, Senior Division, Ratnagiri. The Appellants also accept and acknowledge that as per clause 5 of the said judgment and decree dated 15.12.2018, the Appellants shall pay to the Respondent Nos. 1(a) to 1(c) the interest of 6 p.c.p.a on the said decretal amount till the date its actual payment is made to the Respondent Nos. 1(a) to 1(c) and realized. The parties agree and acknowledge that the total amount receivable by the Respondent Nos. 1(a) to 1(c) along with the said interest as directed by the Ld. Civil Judge, Senior Division, Ratnagiri upto 25.01.2023 comes to Rs.18,47,143/-. The Appellants agree and undertake to deposit the said amount of Rs.18,47,143/- before the Ld. District Court, Ratnagiri on 25.01.2023 in equal proportion, i.e. Rs.9,23,572/- shall be deposited by the Appellant No.2 and Rs.9,23,572/- shall be deposited by the Appellant No.3 and thereafter, the Respondent Nos. 1(a) to 1(c) alone shall be entitled to withdraw the said amounts from the Ld. District Court, Ratnagiri. As per the directions of the Ld. District Court, Ratnagiri, the decretal amount mentioned in clause no.2 of the judgment and decree dated 15.12.2018 passed by the Ld. Civil Judge, Senior Division, Ratnagiri, the amount of Rs. 3,37,587/- was deposited by the State Government and is currently lying in a fixed deposit account. The said decretal

Sonali

amount as mentioned in clause no.2 of the judgment and decree dated 15.12.2018 has matured over the years during pendency of Regular Civil Appeal No. 7 of 2019. The parties accept and acknowledge that the Respondent Nos. 1(a) to 1(c) shall alone be entitled to withdraw the entire matured amount alongwith the accrued interest, whatever the quantum thereof may be, lying in the said Fixed Deposit Account and the Appellants shall have no right to claim any part or share thereof. Thus, the Appellants agree and undertake to withdraw Regular Civil Appeal No. 7 of 2019 pending before the District Court, Ratnagiri.

6) The parties agree and accept that only after the conditions mentioned in clauses no. 4 and 5 are fulfilled by the Appellants, i.e. only after the above Second Appeal and Regular Civil Appeal No. 7 of 2019 are withdrawn by the Appellants and the deposited decretal amounts (matured amounts alongwith the accrued interest lying in the Fixed Deposit Accounts as explained hereinabove) alongwith the amount of Rs.18,47,143/- which the Appellants have agreed to deposit before the Ld. District Court, Ratnagiri on 25.01.2023 has been entirely received by the Respondent Nos. 1(a) to 1(c), the Special Civil Suit No.46 of 2018 filed by the Respondent Nos. 1(a) to 1(c) in the Court of Civil

Sonali

Judge Senior Division, Ratnagiri shall be withdrawn by the Respondent Nos. 1(a) to 1(c). By withdrawing the said suit, i.e. Special Civil Suit No.46 of 2018, the Respondent Nos. 1(a) to 1(c) confirm and acknowledge that the Respondent Nos. 1(a) to 1(c) hereby release and relinquish their respective shares in respect of the amount claimed in the said suit in favour of the Appellants. The Respondent Nos. 1(a) to 1(c) have no objection if the said amount which has been claimed by the Respondent Nos. 1(a) to 1(c) in the said suit is withdrawn by the Appellants or is granted in favour of the Appellants by the State Government.

7) The parties accept and acknowledge that the parties have read and understood the contents of the present consent terms. The parties accept and acknowledge that none of the parties have been under any pressure, force, coercion, fraud, misrepresentation, etc from either party or any other person and the parties are signing the present consent terms as per their own free will and volition and with a view to put an end to their on-going family disputes.

8) In view of the above, the present Second Appeal and the Interim Application may be disposed of accordingly by this Hon'ble Court and a consent decree be passed in accordance with the present

Sonali

Consent Terms.”

5. The undertakings in the Consent Terms of respective parties are accepted as the undertakings given to this Court.

6. The Second Appeal is disposed of in terms of the Consent Terms.

7. In view of the disposal of the Second Appeal, nothing survives in the Interim Application and the same is disposed of as such.

[MADHAV J. JAMDAR, J.]