

shakuntala

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.695 OF 2023

SIDDESH LAXIMIKANT ALVE

... PETITIONER

Versus

NEELKAMAL RAMA TALAULIKAR ALIAS

KAMAL PADMABABH KANEKAR ALIAS

KAMAL PADMANABH CANECAR

... RESPONDENT

Mr. V. Sardesai, Advocate for the Petitioner.

Mr. S. D. Lotlikar, Senior Counsel with Mr. Terence Benedicto Sequeira, Advocate for the Respondent.

CORAM:- BHARAT P. DESHPANDE, J.

DATED :- 18th April, 2024

ORAL ORDER

1. Heard Mr. V. Sardesai, learned counsel for the Petitioner and learned Senior Counsel Shri Lotlikar along with Mr. Sequeira appearing for the Respondent.
2. The order impugned in the present petition is dated 16.04.2022.
3. Mr. Sardesai, on instructions, submits that the Petitioner infact deposited Rs. 48,81,550/- in the Trial Court on 05.12.2011 as owelty money.
4. Mr. Sardesai, on instructions, further submits that Respondent No. 1 is entitled to receive her share out of the said amount deposited

by Petitioner in the Court. He submits that the Petitioner is not having any objection if Respondent No. 1 is permitted to withdraw such amount from her share.

5. Mr. Sardesai is not aware whether the amount deposited in the year 2011 is infact invested by the Trial Court.

6. Mr. Lotlikar, learned senior counsel submits that Respondent No. 1 is entitled to withdraw her share along with interest. He also submits that other interested parties are not coming forward and therefore, the withdrawal of the share of the Respondent No. 1 should not be delayed only because other parties are not coming forward.

7. The Petition can be disposed of by directing the learned Trial Court to reconsider the petition filed by Respondent No. 1 on the fact that the amount was already deposited by the Petitioner who is now not objecting to the withdrawal of share of Respondent No.1.

8. The learned Trial Court shall decide the application afresh on the above contentions as well as the issue with regard to the interest to be paid to Respondent No. 1 on her share.

9. The learned counsel for the Petitioner is permitted to place the receipt of payment of money made by him before the Trial Court, in order to confirm that such owelty money was deposited by the

Petitioner.

10. Such proceedings shall be decided as early as possible and within one month from today.

11. The learned senior counsel submits that the amount which is deposited by the Petitioner is only a part amount on the contention that the other interested parties waived their shares.

12. It is made clear that the claim of Respondent No. 1 shall not depend upon the contentions with regard to the waiver of the other shares.

13. Parties to appear before the Trial Court on 29.04.2024 at 10.00 a.m. and produce a copy of this order so as to take up such application in time bound manner.

14. Application stands disposed of in above terms.

BHARAT P. DESHPANDE, J.