

Niti

IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL NO.80 OF 2023

MANICKAM GANGA MURTHY

... APPELLANT

Versus

GANESH KRISHNA SHETKAR SINCE
DECEASED AND 3 ORS

... RESPONDENTS

Mr Anthony D'Silva and Ms K. Gracias, Advocates for the Appellant.

Mr J.J. Mulgaonkar (through V.C.) with Ms A. Tirodkar, Advocate for Respondent Nos.1(a), 1(b) and 2.

CORAM:- M. S. SONAK, J.

DATED :- 22nd March, 2024

P.C.:

Heard Ms K. Gracias for the appellant and Mr J.J. Mulgaonkar (through V.C.) with Ms A. Tirodkar for respondent nos.1(a), 1(b) and 2.

2. Learned Counsel hand in Consent Terms which are taken on record and marked as 'X' for purpose of identification.

3. The Consent Terms are signed by the appellant and respondent nos.1(a), 1(b) and 2. All these parties are present in the Court today.

4. Ms Gracias requests that respondent nos.3 and 4 be deleted from

the array of respondents. She states that respondent nos.3 and 4 are not necessary parties. Accordingly, the deletion is allowed subject to the risk and consequences of the parties, who have now filed Consent Terms.

5. As noted earlier, the Consent Terms have been signed by the appellant and respondent nos.1(a), 1(b) and 2. The parties have been identified by their respective Advocates.

6. Since, the appellant is a senior citizen, aged about 89 years, he is accompanied by Mr Dattaprasad Pawaskar from Helpage India. I inquired with the appellant whether he has read and understood the Consent Terms.

7. Mr Manickam Ganga Murthy, the appellant, initially stated that he was explained the contents of this Consent Terms but he had not read them. Accordingly, the matter was adjourned for some time and Ms Gracias and Mr Pawaskar were requested to read out the Consent Terms to Mr Manickam Ganga Murthy.

8. After some time, the matter was mentioned by the learned Counsel for the parties. This time, Mr Manickam Ganga Murthy stated that he understands English and the Consent Terms have now been read out to him and he admits that the same are as per his say.

9. Even otherwise, Mr Manickam Ganga Murthy speaks in English and appears to be in good health. He states that he has worked with the Indian Navy for about 50 years and was involved in the operation of submarines.

10. Considering all the above aspects, I am satisfied that he has signed the Consent Terms after understanding their full scope and import.

11. Respondent Nos.1(a), 1(b) and 2 are also present in the Court. They say that they have read and understood the Consent Terms and agree to the same.

12. Accordingly, the Consent Terms are accepted and this Second Appeal is disposed of in terms of such Consent Terms. The undertakings set out in the Consent Terms are accepted as undertakings to this Court.

13. The Consent Terms provide that the appellant would live in the suit premises during his lifetime. The respondents, who have signed the Consent Terms, have very graciously agreed not to charge him any licence fee. The Consent Terms, however, provide that the appellant will pay all the out comings and will not induct any third party or part with possession of the suit premises.

14. Considering all this, I am satisfied that there is nothing in the Consent Terms which could be said to be opposed to public policy. Besides, considering the services rendered by Mr Manickam Ganga Murthy to our Nation, I am confident that the respondents will allow him to stay during his lifetime just as they have very graciously waived of the licence fee.

15. This Court records that both the parties have acted commendably in settling this matter on terms which are honourable to both the parties.

16. The Consent Terms are accordingly accepted. There shall be a decree in terms of the Consent Terms. The Consent Terms provide for cancellation of Sale Deed dated 14.05.2008 and 03.04.2009 in accordance with the decree of the District Court. Now that this part of the decree is confirmed in the Consent Terms, the Sub-Registrar of Bardez should make the necessary endorsement for cancellations based upon a certified copy of this order and the decree made in pursuance thereof.

17. The appeal is accordingly disposed of in the above terms.

M. S. SONAK, J.

NITI KISHOR
HALDANKAR

Digitally signed by NITI
KISHOR HALDANKAR
Date: 2024.03.22
16:02:07 +05'30'