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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 453 OF 2024

WILLIAM PRISCO RODRIGUES ... PETITIONER

Versus

JOSE REMEDIOS RODRIGUES
& 14 OTHERS ... RESPONDENTS

Mr. Ressano Noronha, Advocate for the Petitioner.

CORAM: BHARAT P. DESHPANDE, J.

DATED: 14th JUNE 2024

ORAL ORDER:

1. Heard learned Counsel Mr. Noronha for the Petitioner.
2. The orders challenged in the present Petition are the rejection of the stay Applications filed by the Petitioner before the first Appellate Court along with Miscellaneous Civil Appeals thereby challenging the order passed by the Inventory Court.
3. The Petitioner is one of the co-owners and Party No. 7 in the Inventory Proceedings. Initially, the Petitioner filed an injunction Application before the Inventory Court and during the pendency

of such injunction Application, the Inventory Court protected the Petitioner with regard to the structure in question. However, after hearing both sides, the Inventory Court rejected the injunction Application vide order dated 20.12.2022 and vacated the interim relief. The Petitioner challenged such findings of the learned Trial Court by filing an Appeal before the first Appellate Court. The Miscellaneous Civil Appeal filed by the Petitioner was allowed vide order dated 05.04.2023 thereby upsetting the order dated 20.12.2022 passed by the Inventory Court. Such order dated 05.04.2023 of the first Appellate Court was challenged by Respondent No. 2 by filing Writ Petition No. 381 of 2023.

4. Vide order dated 08.11.2023 passed in Writ Petition No. 381 of 2023, this Court observed that the first Appellate Court committed an error by interfering with the order passed by the Inventory Court and accordingly, allowed the said Petition thereby restoring the order dated 20.12.2022 passed by the Inventory Court. The Petitioner unsuccessfully challenged the order passed by this Court by filing SLP, which was not entertained on 01.04.2024. Subsequently, the Petitioner filed an Application before the Inventory Court for invoking its inherent powers to recall its order dated 20.12.2022. Such Application was rejected by the learned Inventory Court on the ground that such findings

have been confirmed by the High Court and also, the SLP preferred by the Petitioner has been rejected.

5. The Petitioner challenged such order before the first Appellate Court by filing Miscellaneous Civil Appeals as well as stay Applications dated 03.06.2024 and 06.06.2024. The learned first Appellate Court after hearing the Petitioner on the stay Application, passed the first impugned order on 05.06.2024, by which, the stay Application dated 03.06.2024 filed in Miscellaneous Civil Appeal No. 66 of 2024 came to be rejected. The second impugned order dated 07.06.2024 is passed in Miscellaneous Civil Appeal No. 67 of 2024 wherein the stay Application dated 06.06.2024 was rejected.

6. A perusal of both these impugned orders would clearly go to show that the learned first Appellate Court observed that the request of the Petitioner to re-look or to review the order dated 20.12.2022 cannot be considered in view of the fact that the said order was confirmed by the High Court and the SLP filed by the Petitioner against the said order has been rejected. The learned Trial Court has observed that the procedure that has been adopted is nothing but to circumvent the orders passed by the High Court

and the Supreme Court and to reconsider the order passed by the learned Trial Court.

7. The observations of the Trial Court in refusing to stay the order dated 20.12.2022, which has been confirmed by this Court vide order dated 08.11.2023 passed in Writ Petition No. 381 of 2023 cannot be faulted with.

8. Mr. Noronha now submits that there is no direction issued by the Inventory Court while rejecting the injunction Applications. He submits that the Petitioner is one of the co-owners and therefore, the Petitioner is entitled to have possession of the property in question. He submits that fraud has been played on the Court while obtaining the order dated 20.12.2022 and therefore, it was necessary for the concerned Court to look into such aspects.

9. First of all such grounds were available to the Petitioner at the time of raising arguments while deciding Writ Petition No. 381 of 2023, however, no such grounds were raised. The fact remains that this Court in a detailed order dated 08.11.2023, observed that the order of the Inventory Court was legal and binding on the parties. The Petitioner though approached the Apex Court by filing SLP, it was not entertained.

10. It is no doubt true that the rejection of the SLP cannot be said to be confirming the observations of this Court in deciding Writ Petition No. 381 of 2023. However, it is a fact that Writ Petition No. 381 of 2023 was decided on merits and that too, after hearing both parties.

11. In such circumstances, when this Court has confirmed the order dated 20.12.2022 passed by the learned Trial Court, the learned Inventory Court was fully justified in refusing to entertain any Application for recalling such order. Similarly, the first Appellate Court was fully justified in refusing to stay the order dated 20.12.2022 as the same has been confirmed by this Court.

12. Accordingly, the impugned orders challenged in the present Petition cannot be considered as perverse or illegal so as to entertain the Petition under Article 227 of the Constitution of India. There is no substance in the present Petition and accordingly, the same stands dismissed.

BHARAT P. DESHPANDE, J.