



Jose

IN THE HIGH COURT OF BOMBAY AT GOA

MISC. CIVIL APPLICATION NO.446 OF 2018

IN

FIRST APPEAL NO.62 OF 2014

THE STATE OF GOA THR.

CHIEF SECRETARY AND 2 ORS.

... Applicants.

Versus

RAGHUNATH SHANKAR

FALDESAI (DEC) AND 8 ORS.

... Respondents.

Ms Sulekha Kamat, Additional Government Advocate for the Applicants.

Mr Pranav S. Shenvi Kakodkar, Advocate for Respondent Nos.1 and 2.

CORAM: VALMIKI MENEZES, J.

DATED: 9th August, 2024

P.C:

1. This is an application for restoration of First Appeal No.62/2014 which was dismissed on 27.04.2018, pursuant to a conditional order dated 22.03.2018. By order of 22.03.2018, this Court had given the Additional Government Advocate a time period of three weeks from the date of that order to take steps to serve some of the unserved parties, which time period was not complied with.

2. The application for restoration of the Appeal is vehemently opposed by the Advocate for Respondent Nos.1 and 2 on the ground that prior to the dismissal of the appeal, at least 13 opportunities were given to the

learned Additional Government Advocate to pay the process fees for service on the Respondents, which was not complied with. He further submits that this Court had also granted time to the Appellant to bring on record legal representatives of Respondent Nos.3, 5 and 6 which was also not complied with.

3. Countering these submissions, the learned Counsel for the Applicant states that the main causes for the delay are attributed to the fact that time is required for obtaining the death certificates of some of the deceased Respondents and for obtaining the names of the legal representatives, after which the application for bringing the legal representatives on record required Government approval. It is averred in the application that the entire process took time for which reason there was a delay of more than a year to take appropriate steps.

4. Be that as it may, though the application should in normal course be justifiably dismissed since the reasons stated in the application are otherwise sketchy, the fact of the matter remains that the reason for the delay was in taking approval from the Government, though the same took about a year to grant, cannot be ruled out. Accepting this as a plausible reason, it would be appropriate to restore this Appeal to the file, however, imposing costs of Rs.20,000/- which should be adequate compensation for the delay in having this matter restored to the file.

5. Accordingly, the order dated 22.03.2018 dismissing the matter for non-prosecution is set aside and First Appeal No.62/2014 is restored to the file. The Appellants shall pay costs of Rs.20,000/- to Respondent Nos.1 and 2 within a period of three weeks from today as condition precedent for the restoration of the Appeal.

6. Application is disposed of.

VALMIKI MENEZES, J.