

Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA
CIVIL APPLICATION (REVIEW) NO.20/2017
IN
SECOND APPEAL NO.20/2006
WITH
MISC. CIVIL APPLICATION NO.2493/2023 (F)
IN
CIVIL APPLICATION (REVIEW) NO.20/2017

VASANT VITAL BHONSLE (DEC) ... APPLICANTS/
AND ANR. REVIEW PETITIONERS

Versus

NARENDRA PANDURANG
CHATIM AND 3 ORS. ... RESPONDENTS

Ms Suzette Pereira, Advocate for the Applicants/Review
Petitioners.

Mr S. D. Lotlikar, Senior Advocate with Ms S. Kenny, Advocate
for Respondents No.1 and 2.

CORAM: M. S. SONAK, J.

DATED: 9th FEBRUARY 2024

P.C.:

1. Ms Suzette Pereira, learned counsel for the petitioners submits that the connected review petition i.e. the Civil Application (Review) No.19/2017 in second Appeal No.21/2006 was disposed of by this Court by order dated 21.03.2023. She says that even this Civil Application (Review) No.20/2017 in Second Appeal No.20/2006 can be disposed of by making the

same order as was made in the Civil Application (Review) No.19/2017 in second Appeal No.21/200.

2. Mr Lotlikar, learned Senior Advocate appearing along with Ms S. Kenny for respondents no.1 and 2 agrees that even this review petition can be disposed of by making the same order.

3. The order dated 21.03.2023 made in the Civil Application (Review) No.19/2017 in second Appeal No.21/2006 is transcribed below for the convenience of reference:-

“1. Heard Ms Pereira for the review petitioners and Ms Kenny for respondents no.1 and 2.

2. Ms Pereira submits that after the Judgment and Order was made in Second Appeal No.21/2006 the review petitioners have come to possess some documents which, despite due diligence were not to the knowledge of the review petitioners. She points out that one of the documents is the death certificate of Datta Shet. She points out that the respondents no.1 and 2 had relied upon a Judgment and Decree made by the Trial Court in a suit involving said Datta Shet. Based upon this Judgment and Decree, title was claimed by the respondents no.1 and 2. She submits that since Datta Shet was already dead at the time when this decree was made, the same would amount to a nullity. She submits that this is a good ground for review.

3. Ms Kenny, learned counsel for respondents no.1 and 2 points out that this Court had remanded the matter to the Trial Court. She submits that there is no error apparent on the face of record. She points out that the review petition instituted by Vasant Vital Bhosle (Dec.) and another in the connected Second Appeal No.20/2006 is already dismissed by this Court vide Order dated 02.02.2023. For all these reasons Ms Kenny submits that even this review petition ought to be dismissed.

4. The order dated 02.02.2023 dismissing the review petition in Second Appeal No.20/2006 was because the review petitioners chose not to diligently pursue the review petition after having obtained an interim order. The review petition was dismissed for non-prosecution and the interim order was vacated.

5. Now that this Court has remanded the matter to the Trial Court vide the Judgment and Order dated 07.10.2016 of which review is applied for, this review petition can be disposed of by granting the review petitioners liberty to apply to the Trial Court for production of additional documents which the review petitioners claim were not within their knowledge despite due diligence. Based upon such documents, liberty can also be granted to the review petitioners to urge why no relief should be granted to the original plaintiffs i.e. respondents no.1 and 2. All contentions of the original plaintiffs i.e. respondents no.1 and 2 in this regard can also be kept open. Accordingly, by

adopting this course of action and granting the review petitioners as well as the respondents no.1 and 2 liberties as aforesaid, this review petition is disposed of.

6. This Court makes it clear that it has not examined the rival contentions and therefore, if the review petitioners indeed file an application before the Trial Court, the same will be considered and disposed of in accordance with law by giving an opportunity of hearing to the original plaintiffs i.e. respondents no.1 and 2 and the review petitioners.

7. With the above observations this review petition is disposed of. There shall be no order for costs.

8. Misc. Civil Application is also disposed of considering the above liberties granted to the petitioners.”

4. As agreed by the learned counsel for the parties, even this review petition is disposed of by making the same order as transcribed above, no doubt, with consequential changes in the Second Appeal number, etc.

5. Learned Counsel for the parties state that First Appeal No.53/2005 is now posted before the First Appellate Court on 29.02.2024. Ms Pereira states that the additional documents, in terms of the liberty now granted, will be filed before the First Appellate Court on or before 29.02.2024 without seeking any adjournments. Mr Lotlikar, learned counsel for respondents no.1 and 2, states that the respondents in the First Appeal will have no

objections to the production of the above documents. He states that he is making this statement at the outset because the respondents are eager that the matter is heard by the First Appellate Court on 29.02.2024 itself and the same is not delayed on the said date for any such reason.

6. Ms Suzette Pereira states that she is appearing before the First Appellate Court and she will proceed with the matter on 29.02.2024. The learned First Appellate Court is also requested to proceed with the First Appeal on the said date or, if it is really not possible, on a short date to be indicated thereafter and dispose of First Appeal No.53/2005 as expeditiously as possible and in any case on or before 30.04.2024.

7. Review Petition is disposed of in above terms without any order for costs.

8. It is clarified that this Court has not examined the merits of the matter or the relevancy of the documents. Therefore, all contentions of all parties are kept open to be decided by the First Appellate Court in accordance with law.

9. The Civil Application does not survive the disposal of the review petition and the same is also disposed of.

M. S. SONAK, J.

SUCHITRA
NANDAN
SINGBAL
Digitally signed by
SUCHITRA NANDAN
SINGBAL
Date: 2024.02.10
12:57:16 +05'30'