

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 237 OF 2005

Prakash Baburao Barge

...Appellant

vs.

Sadashiv Vishwanath Shete

...Respondent

<u>Persons appeared Physically :-</u>		
Mr.Abhishek Deshmukh a/w Ms.Bhati Wast i/b. Mr.S.A.Sawant		Advocate for Appellant.
Mr.Ajit Kenjale a/w Mr.Sai R. Kadam		Advocate for Respondent.
Mr.Chetan Bhagwat		Deputy Registrar – Mediation Centre.
<u>Persons virtually present :-</u>		
Mr.A.D.Patil		Civil Judge Junior Division – Koregaon (Mediator).
Mr.S.N.Kenjale		Advocate for Accused from Koregaon.
Mr.D.M.Barge		Advocate for Complainant from Koregaon.
Mr.Prakash B. Barge		Appellant.
Mr.Sadashiv V. Shete		Respondent.

CORAM : S. M. MODAK, J.

DATE : 14th MARCH 2024

P. C. :-

1. It is really appreciable that after the dispute is referred to the learned Secretary – District Legal Services Authority – Satara for mediation, learned Judge-Mediator at Koregaon has taken lot of efforts by conducting meetings with both the parties.

2. There were two disputes. They are as follows :-

- (a) Dispute arising out of dishonour of cheque and failure to make payment. There is a judgment of acquittal and that is why, present Appeal.
- (b) Dispute pertaining to land and structure situated at Koregaon by way of Regular Civil Suit No. 326 of 2014.

3. On the basis of submissions made on 8th January, 2024, the dispute involved in this Appeal was referred, so also, parties were granted liberty to refer the civil dispute for mediation also. That is how, learned Judge-Mediator has interacted with both the parties in respect of both the disputes. He was successful in settling the dispute involved in the present Appeal. However, the property dispute could not be settled.

4. Learned Judge-Mediator, Civil Judge Junior Division – Koregaon by his letter dated 4th March, 2024 has informed about the settlement of the dispute and photo copy is annexed by joint compromise pursis executed before him on 4th March, 2024. I have gone through it. Even

learned Advocates representing the parties in this Appeal have also gone through it. It is signed by following persons :-

- (a) Appellant and Respondent
- (b) By their respective Advocates.

5. As per the purshis, the Respondent-Accused who is a tenant has paid Rs.35,000/- (Rupees Thirty Five Thousand Only) in full and final settlement of the cheque amount and the Appellant – Complainant / Landlord has accepted it. Both are agreed for disposal of Appeal in view of compromise pursis.

6. Today, learned Advocate Shri.Kenjale for Respondent submitted that when he made submissions on 8th January, 2024, he was not having relevant papers and that is why, some incorrect submissions were made. As yet, the property dispute is not settled, this Court is not making any observations about the property dispute. The submissions recorded in the order dated 8th January, 2024 also may not be considered by any of the parties in future. Hence, following order :-

ORDER

- (i) Appeal is disposed of in terms of the joint compromise purshis. It is marked Annexure-X.
- (ii) Once the original compromise purshis is filed, let the Sheristedar to attach it to the file. It be marked as

Annexure-B.

- (iii) Appeal is disposed of in terms of compromise purshis. As the matter is settled in mediation, the compounding charges as per the observations in case of *Damodar S. Prabhu v/s. Sayed Babalal H.*¹ are waived.
- (iv) The parties are at liberty to pursue their remedies in property dispute suit.
- (v) Even, they are at liberty to request for settlement of that dispute through mediation, if they desirous.

7. It is true that this Appeal is pending since 2005 for more than 18 years. It is also true that this Court might have heard the arguments of respective Advocates and might have decided the Appeal as per the merits. However, it is referred to mediation and the matter is successfully settled. So, this is the spirit of mediation process. The efforts taken by learned Judge-Mediator are really appreciable. Let it be informed to learned Principal District Judge – Satara under whom, he is working. Copy of this order be also sent to learned Judge-Mediator.

8. It is also true that learned Deputy Registrar – Shri.Chetan Bhagwat has also taken pains in doing the follow-up. His efforts are also appreciable.

[S. M. MODAK, J.]

1 (2010) 5 SCC 663