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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REFERENCE NO.2 OF 2018**

Ku. Samta K. Choudhary (15th Joint Civil
Judge, Senior Division) Appellant.
V/s
Pune Cantonment Board & Anr. Respondents.

**WITH
INTERIM APPLICATION NO.154 OF 2020
IN
CIVIL REFERENCE NO.2 OF 2018**

Michael Stephen KedariIntervener

In the matter between

Ku. Samta K. Choudhary (15th Joint Civil
Judge, Senior Division) Appellant.
V/s
Pune Cantonment Board & Anr. Respondents.

Mr. Prashant More i/b Mr. A.B. Vagyani for the Applicant/Intervener
Mr. K.J. Presswalla a/w Mr. Tushad Kakalia & Mr. Sandeep Goyal i/b
Mulla & Mulla & Craigie Blunt & Caroe for Respondent Nos. 1 and 2.

**CORAM: A.S. CHANDURKAR &
JITENDRA JAIN, JJ.**

DATE: 1ST MARCH, 2024

P.C.:-

1] The present reference has been made under Chapter XXXIV Rule
5(d) of the Bombay High Court Appellate Side Rules, 1960. The same

arises at the behest of the learned 15th Joint Civil Judge, Senior Division Pune in view of the non-compliance of the order dated 29/07/2013 passed by the executing court in Regular Darkhast No.47 of 2013. Regular Civil Suit No.488 of 2002 came to be filed by the intervener against the Cantonment Board seeking declaration of his right as an owner of the suit property on the basis of a probated Will and for further ancillary directions. The Trial Court by its judgment dated 28/8/2003 decreed the suit and held that the Plaintiff was the owner of the suit property by virtue of the probated Will. The Cantonment Board was directed to give effect to the said Will and enter the name of the Plaintiff in the General Land Register. This decree was challenged by the Pune Cantonment Board in Civil Appeal No.762 of 2003. By the judgment dated 29/07/2005, the appeal came to be dismissed. A direction was issued to the Pune Cantonment Board to give effect to the probated Will and to enter the name of the Plaintiff in the General Land Register with regard to the suit property.

2] After this decree attained finality, the original Plaintiff sought to execute the decree. Since the Pune Cantonment Board failed to comply with the said decree, it was sought to be executed. The original

Plaintiff filed an application before the executing court with a prayer to initiate action against the Pune Cantonment Board for failure to comply with the said decree. Accordingly, by an order dated 20/2/2018 the executing court passed an order permitting a reference to be made under Section 15(2) of the Contempt of Courts Act, 1971. It is in this backdrop that the present reference has been placed before the Court.

3] An affidavit dated 24/1/2024 has been filed on behalf of the Pune Cantonment Board through its Senior Clerk. In paragraph 2 of the aforesaid affidavit, it has been stated as under:-

“2 At the outset it is submitted that the Respondent No.1 Pune Cantonment Board has complied with the order dated 28/08/2003 of the Hon’ble District Court at Pune by recording the name of the Plaintiff Mr. Michael Stephen Kedari in the General Land Register (‘GLR’) of the Respondent No.1 dated 1st January 2024 and the Respondents humbly apologies to this Hon’ble Court for the delays on the part of the Respondents in complying with the order of the Dist. Court at Pune. Hereto annexed and marked as Annexure-“A” is a copy of the GLR Extract dated 1st January, 2024.”

4] It is seen from the record that the Pune Cantonment Board had in the interregnum filed an application under Section 152 of the Code of Civil Procedure, 1908 for correction of the judgment and decree passed by the Trial Court. This application came to be rejected on 3/7/2023. It appears that since the proceedings were pending in this regard, there was delay in execution of the decree.

5] By accepting the statement made in para 2 of the aforesaid affidavit that the decree passed in favour of the original Plaintiff has now been complied with and the name of the original Plaintiff has been recorded in the General Land Register, it is not necessary to keep the present proceedings pending.

6] After recording the aforesaid compliance, these proceedings are disposed of. The Interim Application is also disposed of.

[JITENDRA JAIN, J.]

[A.S. CHANDURKAR, J.]