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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 13956 OF 2024
IN
LETTERS PATENT APPEAL NO. 315 OF 2013
IN
WRIT PETITION NO. 7895 OF 2011
WITH
LETTERS PATENT APPEAL NO. 315 OF 2013
IN
WRIT PETITION NO. 7895 OF 2011

Balasaheb Sonba Chavan

...Applicant/Appellant

Versus

Dilip Baburao Rajput (since deceased)

through his legal heirs & Ors.

..Respondents

Ms. Veena Thadhani a/w Rutuja Gaikwad for Applicant/Appellant.

Mr. Shrirang Katneshwarkar a/w Sandeep Gupta, Vivek Chauhan for Respondent
No. 1 to 1E.

Ms. neha Bhide, GP a/w A. 1. Patel, Addl.G.P., M. S. Bane, AGP for Respondent
State.

CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.

DATE: 6th NOVEMBER 2025

ORAL JUDGMENT (Per Aarti Sathe, J.)

1. This Letters Patent Appeal is directed against the judgment and order dated 19th October 2012 (hereinafter referred to as the “impugned order”) passed by the learned Single Judge whereby Writ Petition No. 7895 of 2011 along with Civil Application 1762 of 2012 filed by Partner of the Appellant’s father Mr. Sonba Anaji Chavan i.e. Mr. Dilip Baburao Rajput was partly allowed. Being aggrieved by

certain findings given in the impugned order, the Appellant has filed the present Letters Patent Appeal.

2. Briefly the facts are:-

2.1 Sometime in the year 1973-74, the Appellant's father i.e. Mr. Sonba Anaji Chavan was granted Vendor's license (hereinafter referred to as the License) in form FL-II and CL/FL-III by the Government of Maharashtra under the Bombay Prohibition Act, 1949. This License was granted under the Bombay Foreign Liquor Rules, 1953 for retail sale of foreign liquor and country liquor. The Appellant's father, Mr. Sonba Anaji Chavan was carrying on business in the name of the partnership firm M/s. Chavan and Company, wherein one Mr. Prasanna Kumar was the partner of the Appellant's Father Mr. Sonba Anaji Chavan. However, later in 1990 the name of Shri. Prasanna Kumar was deleted and on 29th June 1990, the Appellant's father applied to the Collector of Pune for including the name of Mr. Dilip Baburao Rajput as a partner in the aforesaid business. A statement was recorded by the State Excise Department, where Mr., Dilip Baburao Rajput undertook to abide by the terms and conditions of the new partnership deed approved by the Collector.

2.2 On 26th July 1990, the Collector approved the new partnership deed and permitted addition of Mr. Dilip Baburao Rajput on the License as a partner subject to the following two conditions.

- (a) that the original Licensee i.e. Sonba A. Chavan would have a larger share in the Partnership; and*
- (b) that on death of the original Licensee, i.e. Sonba A. Chavan, the Incoming Partner (i.e. Mr. Dilip Baburao Rajput herein) would not have any right on the Vendor's Licences.*

2.3 Further, clauses 4, 8 and 13 of the new partnership deed were as follows:

- "4. the shares in Partnership were 51% to the Appellant's father and Mr. Dilip Baburao Rajput 49%;*
- 8. that Mr. Dilip Baburao Rajput would have no right in the Vendor's licence after the death, incapacity or terminal disease of the Appellant's father and the licence would be transferred to the name of the Appellant's father's legal heirs;*
- 13. that the Partnership would come into effect after approval by*

the Collector and Mr. Dilip Baburao Rajput would have rights in accordance with the Partnership Deed and in the event of the death, incapacity or for any other reason if the relation of the original licence holder (i.e. the Appellant's father) with the licence was severed, the newly added Partner would have no right whatsoever on the licence."

2.4 On the basis of the above clauses in the partnership deed and the conditions mentioned therein, the name of Mr. Dilip Baburao Rajput was included in the License and the same conditions were endorsed on the License on 26th July 1990. Sometime in the year 1998, inter se disputes arose between the Appellant's father Mr. Sonba Anaji Chavan and Mr. Dilip Baburao Rajput regarding the workings of the partnership and therefore the Appellant's father Mr. Sonba Anaji Chavan applied to the licensing authority requesting that the License given to the partnership deed for carrying on retail sale of foreign liquor and country liquor should not be renewed and the name of Mr. Dilip Baburao Rajput should be deleted from the same.

2.5 On 30th March 1998, Mr. Dilip Baburao Rajput applied for renewal of the License to the Collector, however the same was rejected by the Collector by an order of even date on the ground that the Appellant's father Mr. Sonba Anaji Chavan had raised an objection for the renewal of the same and as a dispute existed between Mr. Sonba Anaji Chavan and Mr. Dilip Baburao Rajput, the Collector rejected the application of Mr. Dilip Baburao Rajput.

2.6 Being aggrieved by the order of the Collector rejecting the application of Mr. Dilip Baburao Rajput, he filed an appeal under section 137(2) of the Bombay Prohibition Act, 1949 to the Commissioner State Excise. The Commissioner State Excise by order an dated 30th June 1998 set aside the order of the Collector dated 30th March 1998 and renewed the License on the ground that the partnership deed was in existence.

2.7 Being aggrieved by the Commissioner State Excise's order dated 30th June

1998, the Appellant's father Mr. Sonba Anaji Chavan filed a Revision Application before the State Government and the same also was rejected by an order dated 04th March 1999. The Appellant's father Mr. Sonba Anaji Chavan filed Writ Petition No. 7357 of 2000 which was disposed off by a Division Bench of this Court by an order dated 27th July 2002. The Division Bench reached to a conclusion that the appropriate remedy of Mr. Sonba Anaji Chavan was to file a Civil Suit, however no Civil Suit has been filed in as much as it is the Appellant's contention that since the partnership deed was not registered, the Appellant's father Mr. Sonba Anaji Chavan did not file any Civil Suit.

2.8 Mr. Dilip Baburao Rajput filed a Regular Special Civil Suit No. 323 of 2000 in the Court of Civil judge Senior Division, Pune on 27th March 2000. The said Civil Suit was dismissed by an order dated 20th April 2006 passed by the Civil Judge Senior Division, Pune.

2.9 On 07th August 2007 Mr. Sonba Anaji Chavan passed away, leaving behind the Appellant and two daughters who have renounced their right, title and interest in the business including in the license. It is the Appellant's contention that after the death of the Appellant's father Mr. Sonba Anaji Chavan in 2007, Mr. Dilip Baburao Rajput on the basis of an alleged forged and fabricated deed of relinquishment dated 30th August 1990, purportedly signed by the Appellant's father Mr. Sonba Anaji Chavan in favour of Mr. Dilip Baburao Rajput, applied to the licensing authority to delete the name of Appellant's father Mr. Sonba Anaji Chavan from the said License. During the same time, the Appellant also applied to the licensing authority to transpose his name in place of his deceased father.

2.10 After granting a personal hearing to the Appellant and Mr. Dilip Baburao Rajput in 2009, the licensing authority passed an order dated 09th February 2010 shutting down the business of the partnership firm till the time Mr. Dilip Baburao Rajput and the Appellant did not submit proper documentation in respect of the partnership deed to the office of the licensing authority.

2.11 Being aggrieved by the order dated 09th February 2010 passed by the licensing authority, both Mr. Dilip Baburao Rajput and the Appellant filed appeals and stay applications for stay before the Commissioner State Excise. The stay applications were rejected by the Commissioner State Excise by an order dated 06th April 2010 and by a common order dated 24th August 2010, on the appeals filed by the Appellant and Mr. Dilip Baburao Rajput, the Commissioner State Excise rejected both the appeals and upheld the order dated 09th February 2010 passed by the licensing authority.

2.12 The Appellant filed a Revision Petition sometime in 2011 before the State Government against the order passed by the Commissioner State Excise and after according a personal hearing to the Appellant, by an order dated 13th July 2011, the Revision Petition filed by the Appellant was allowed and it was directed that the name of Mr. Dilip Baburao Rajput be deleted from the License in accordance with terms and conditions of the partnership deed which was also endorsed on the License in the Register of Licenses.

2.13 Being aggrieved by the order dated 13th July 2011 Mr. Dilip Baburao Rajput filed a Writ Petition No. 7895 of 2011 and obtained an ex-parte ad interim relief from this Court on 26th September 2011, restraining the licensing authority from deleting his name from the License. It is on this Writ Petition No. 7895 of 2011, that the impugned order has been passed which is been challenged in the present Letters Patent Appeal.

2.14 Thereafter, on 5th March 2016 the legal representatives of Mr. Dilip Baburao Rajput filed a miscellaneous application no. 339 of 2012 for condonation of delay and restoration of the Suit bearing No. 323 of 2000 which was dismissed by an order dated 20th April 2006. The aforesaid miscellaneous application was also rejected by an order dated 05th March 2016 passed by 2nd Joint Civil Judge Junior Division, Pune.

2.15 Mr. Dilip Baburao Rajput has filed Civil Appeal bearing No. 191 of 2016 against the order dated 05th March 2016. In the meantime, Mr. Dilip Baburao Rajput expired on 28th July 2020. The Civil Appeal No. 191 of 2016 also came to be dismissed on 07th January 2022 by the District Court.

2.16 The son of Mr. Dilip Baburao Rajput along with the other legal heirs have filed a Writ Petition No. 11904 of 2022 in this Court against the order passed by the District Court rejecting their Civil Appeal which is pending adjudication.

3. It is in backdrop of these facts and the rather chequered history, and the inter se dispute existing between the Appellant and Mr. Dilip Baburao Rajput that we proceed to decide the present Letters Patent Appeal.

4. We have heard Ms. Veena Thadani along with Ms. Rutuja Gaikwad learned counsels for the Appellant, and Mr. Shrirang Katneshwarkar, Mr. Sandeep Gupta and Mr. Vivek Chauhan learned counsels for the Respondent No. 1 to 1E as also Mr., A.I Patel and Ms. M.S. Bane for the State. We have also perused the papers and the impugned order passed by the learned Single Judge. It is pertinent to note that post filing of the Letters Patent Appeal No. 315 of 2013 and post admission of the present appeal in the year 2013, fresh developments occurred in the matter as enumerated in paras 2.14 to 2.16 above. These developments have culminated into the filing of Writ Petition No. 11904 of 2022 by the legal heirs of Mr. Dilip Baburao Rajput which is pending adjudication. Ms. Veena Thadani, learned counsel for the Appellant has contended that since the Civil Appeal No. 191 of 2016 filed by Mr. Dilipo Baburao Rajput has been rejected, the inter se disputes between the parties do not survive. It is her submission therefore that the License should hence be rightly granted to the Appellant. Further it is her contention that even the impugned order has been passed by the learned Single Judge on the basis of the inter se disputes that existed between the Appellant and the Respondent and since those disputes do not exist anymore, the impugned order needs to be quashed

and set aside. She took us through the relevant findings in the impugned order which read thus:

22. Before me the controversy is that during the lifetime of Sonba Chavan, there was a dispute which dispute was brought before this Court at the instance of Sonba Chavan who was directed to approach a competent civil court and not pursue his claim against the Petitioner before the authorities under the Bombay Prohibition Act, 1949. That order of the Court was accepted by Sonba Chavan. Equally, during his lifetime a civil suit was filed against him and others by the Petitioner in which an injunction was granted which also was not questioned by Sonba Chavan. Therefore, when Sonba Chavan died and the Respondent No.4 sought to insert his name in the Licence and in the meanwhile, the term of Licence has expired, that the Collector has adopted a fair and reasonable approach to both sides, namely, the Licence will stand suspended until the disputes between parties are resolved by them. It is the interference with such an order at the instance of the Respondent No.4 whose predecessor was bound by the earlier orders and stand, that was impermissible. It is for that reason that I have set aside the order under challenge. In these circumstances no assistance can be derived from these judgments on which heavy reliance has been placed.

23. As a result of the above discussion, the Writ Petition succeeds partially. The order of the State Government to the extent it allows the Revision Application of the Respondent No.4 and permits insertion of his name in the Licence thereby enabling him to carry on business, is quashed and set aside. Rule is made absolute in the above terms, but without any orders as to costs

24. In view of disposal of the Writ Petition, the Civil Application does not survive and same also stands disposed of. No costs.

5. On the other hand, Mr. Shrirang Katneshwarkar, learned counsel appearing on behalf of the Respondents contends that since Writ Petition No. 11904 of 2022 is still pending adjudication before this Court all the rights of the Parties are still open and there is no finality regarding the same.

6. After hearing the contentions as canvassed by both the parties, we are not inclined to accept the submission made by the learned counsel for the Respondent that since the Writ Petition No. 11904 of 2022 is still pending adjudication, the impugned order cannot be quashed and set aside. The license as of today stands suspended and cannot be used either by the Appellant or the Respondent in view

of this long pending dispute, thereby bringing the business to a grinding halt which in our view is not an acceptable situation. We are at this stage inclined to accept the submission made by the learned counsel for the Appellant Ms. Veena Thadani that since the Civil Appeal No. 191 of 2016 filed by the Respondent has been rejected there exists no inter se dispute between the Appellant and the Respondent anymore. Further, the impugned order also, as stated aforesaid bases its decision on the said inter se dispute. The non filing of civil suit by the Appellant's father i.e. Mr. Sonba Anaji Chavan would not tilt the matter in favour of the Respondent, in as much as even the civil suit filed by the Respondent as of today stands dismissed. Submission made by learned counsel for the Appellant Ms. Thadani therefore in our view needs to be accepted. The pendency of the Writ Petition No. 11904 of 2022 before this Court should not come in the way of quashing and setting aside the impugned order in view of these changed circumstances and subject to the outcome of the said petition we deem it necessary to pass the following order:-

ORDER

- (i) Impugned order dated 19.10.2012 is quashed and set aside.
- (ii) Collector Pune to transfer the Vendor's License in the name of the **Appellant subject to payment of license fee for the year 2025-2026 by the Appellant for renewal/ transfer of the license in the name of the Appellant.**
- (iii) The renewal shall be subject to the orders which would be passed by the learned Single Judge of this Court in Writ Petition No. 11904 of 2022.
- (iv) The Appeal allowed in terms of the above order. In view of the above order, nothing survives in the above Interim Application.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)