

CIVIL REVISION APPLICATION NO. 257 OF 2000

Shri Pandurang Babani
Raut, aged about 44 yrs.,
r/o House No.7, Primeiro
Palvem, Chinchinim,
Salcete, Goa.

.... Petitioner.

Versus

1. Smt. Indira Yeshwant
Kandolkar,
2. Shri Ramakant Y.
Kandolkar (deceased):
3. Shri Shankar Y.
Kandolkar,
4. Shri Rajendra Y.
Kandolkar,
5. Shri Ajay Y.
Kandolkar, all r/o 1st
Palvem, Chinchinim,
Salcete, Goa and
6. Shri Janardan Sinai
Agni, aged about
60 yrs., landlord,
r/o House No.13,
Pedda, Margao, Goa.

.... Respondents.

Mr. M. S. Sonak, advocate for the petitioner.

Mr. S. D. Lotlikar, Senior Advocate with Ms. R. Thakur,
advocate for respondents no.1, 3, 4 and 5.

CORAM: V. C. DAGA, J.

DATE: 21st June, 2002.

ORAL JUDGMENT

Heard learned counsel for the rival parties.
The short issue in this petition is as to whether the
executing Court was right in directing the demolition of
the compound wall on the northern and western sides of
the house of the judgment-debtor no.1 in pursuance of the

decree which directs demolition of the compound wall constructed on 30th June, 1980. The executing Court after having heard the parties, by a reasoned order reached to the conclusion that the compound wall on the northern and western sides of the house of the judgment-debtor needs to be demolished.

2. In **Bhavan Vaja vs. Solanki Hanuji Khaoji Mansang**, AIR 1972, SC 1371, it has been observed as under:-

" It is true that an executing court cannot go behind the decree under execution. But that does not mean that it has no duty to find out the true effect of decree. For construing a decree it can and in appropriate cases it ought to take into consideration the pleadings as well as the proceedings leading up to the decree. In order to find out the meaning of the words employed in a decree, the Court often has to ascertain the circumstance under which these words came to be used. That is the plain duty of the executing Court and if that court fails to discharge that duty, it would be deemed to have failed to exercise the jurisdiction vested in it."

In view of the observations made above, the pleadings of the parties as well as the findings recorded by the Court which tried the suit are to be looked into. the Court can certainly ascertain the circumstances under which the decree was passed.

3. After considering the entire arguments advanced by both learned counsel, I am of the opinion that the arguments of learned counsel for the petitioner have no substance. No material is placed before me to find fault with the impugned Order. The impugned Order is based on appreciation of the material brought on record and the view taken by the executing Court is a reasonable and possible view.

4. In this view of the matter, no case is made out to interfere with the impugned Order. The Revision Application is dismissed with no order as to costs. Needless to mention that executing Court shall execute the decree in accordance with the law, as expeditiously as possible.

V. C. DAGA, J.