

Amrut

IN THE HIGH COURT OF BOMBAY AT GOA
MISC. CIVIL APPLICATION NO.544 OF 2016
IN
MISC. CIVIL APPLICATION NO.688 OF 2015

Sridhar B Shenvi Bhobe & Ors

... Applicants

Versus

Evaristo Pinto & Ors

...Respondent

Mr SG Desai, *Senior Advocate with Mr A Gaonkar, Advocate for the Applicants.*

Mr I Agha, *Advocate for the Respondent.*

CORAM: G.S. PATEL,J

DATED: 29th September 2017

PC:-

1. Heard.

2. I do not think it is either necessary or appropriate, and it is most certainly seemly, to get into the various allegations that are made in this Civil Application. It is enough to note that Second Appeal No 164 of 2005 was dismissed for non prosecution/default on 24th June 2015, having been previously admitted in 2009. The application for setting aside that order of dismissal for non prosecution, i.e., the present Civil Application was brought within the month on 22nd July 2015.

3. Mr Desai, on instructions, states that the allegations made in the Civil Application may be ignored and treated as unconditionally withdrawn. The statement is accepted. His only submission is that having waited this length of time for final disposal of admitted Second Appeal, the Appellants should not be made to suffer on account of a dismissal, for whatever reason, only for non prosecution. I will accept both Mr Desai's statement as also his submission, while commending the fairness with which these are made.

4. The Civil Application is made absolute. The Second Appeal is restored to file. The only additional safeguard that I will now insist on is to fix a peremptory date for hearing and final disposal, something on which both sides are agreeable. Before doing that, I must make allowance for the fact that there is pending Civil Application No 544 of 2016 to implead the heirs of the deceased Respondent Nos 3 and 4 as mentioned in paragraph 11.

5. That application is also made absolute and the delay, whatever it be, is condoned. Amendment to be carried out without need of reverification by 6th October 2017.

6. The newly added Respondents will be served by 10th November 2017. All the Respondents reside in Goa. All may be served by private notice by hand delivery.

7. Hamdast permitted.

8. All process fees to be paid by 6th October 2017. Notices to be issued by 13th October 2017. The Appeal is to be listed for hearing and final disposal first on the final hearing board on 7th December 2017.

9. As regards Respondent No 2, her name may be struck off as she has passed away and her heirs are already on record as Respondent Nos 1(a) and (b).

10. Similarly Respondent No 7 has expired and his heir. Respondent No 6(a), is already on record.

G. S. PATEL, J