

*Esha***IN THE HIGH COURT OF BOMBAY AT GOA****WRIT PETITION NO. 849 OF 2023**

1. Shri. Hanumant Yadav Pednekar, s/o Yadav Pednekar, Age 51 years, Married, R/o H. No. 28, Behind Swami Samarth Mandir, Rumdamol, Davorlim-Salcete, Goa.
2. Smt. Sangeeta Pednekar, Age 50 years, w/o Hanumant Pednekar, H. No. 28, Behind Swami Samarth Mandir, Rumdamol, Davorlim-Salcete, Goa.

... Petitioners

Versus

1. Smt. Kulsum Mohamed Akbar, Age 55 years, Housewife, Married, R/o H. No. 40, Opp. Waxpol Service Centre, Maruti Mandir Road, Housing Board, Davorlim-Salcete-Goa.
2. Shri. Shaikh Mohamad Akbar, s/o late Shaikh Ismail, Age 70 years, Married, Businessmen;
3. Smt. Yasmin Akbar Shaikh, d/o Quasim Shaikh, Age 44 years, Housewife,

Both R/o Flat No. 14, Galaxy Apts.,
Near Cine Vishant, Aquem, Margao,
Goa.

... Respondents

Mr. Rohan Rama Dessai, Advocate for the Petitioners.

Mr. Iftikhar Agha with Mr. Ketan Morajkar, Mr. Utkarsh Sawant and Ms. Valencia Fernandes, Advocates for the Respondents.

CORAM: BHARAT P. DESHPANDE, J.

DATED: 30th SEPTEMBER 2024

ORAL JUDGMENT:

1. Rule. Rule made returnable forthwith.
2. The matter is taken up for final disposal at the admission stage itself with consent.
3. Heard Mr. Dessai for the Petitioners and Mr. Agha for the Respondents.
4. The issue involved in the present Petition is the rejection of the Application for production of the additional document i.e. the judgment and decree dated 14.06.2017 passed by the Trial Court in Special Civil Suit No. 136/2003.
5. The learned Counsel for the Petitioners submits that though the amendment Application was allowed, the Petitioners were prevented from producing such a document.
6. Mr. Agha submits that the Petitioners, who are the Defendants in the suit are trying to produce only one document suppressing the other documents in connection to the said suit.

7. The issue involved is only with regard to the production of the document and that too, a judgment passed by the learned Trial Court i.e. the judgment and decree dated 14.06.2017 passed in Special Civil Suit No. 136/2003.

8. Even otherwise, a document that the Petitioners are seeking to produce is a judgment passed by the Civil Court wherein the Respondents are one of the parties to the said suit. The said document was rejected by the Trial Court only on the ground that the Respondents filed an Appeal against the said judgment and decree before the District Court and now, Second Appeal No. 3 of 2021 is pending before this Court and thus, the proceedings have not attained finality.

9. The Application was only for the production of a document. The question whether the matter has attained finality, need not be gone into at this stage. Even otherwise, a document which the Petitioners seek to produce being the judgment passed by the Court, a judicial note could have been taken by the Court.

10. The objections raised by the Respondents with regard to the suppression of other documents could be addressed and decided at the time of final hearing of the said matter.

11. The learned Trial Court, by mixing these issues, failed to consider the scope of the provisions in connection with the production of the document. Accordingly, the impugned order needs to be quashed and set aside. The learned Trial Court is otherwise entitled to take judicial note of the said document, which is a judgment and decree passed by the competent Court, though the same is challenged before this Court in Second Appeal No. 3 of 2021, which is pending disposal.

12. Having said so, the impugned order is hereby quashed and set aside. The Application for the production of the document is allowed.

13. Rule is made absolute in the above terms.

BHARAT P. DESHPANDE, J.