



Vinita

**IN THE HIGH COURT OF BOMBAY AT GOA
CIVIL REVISION APPLICATION NO.17 OF 2024**

PRAMOD DATTARAM KALOKHE

... Applicant.

Versus

ASHMITA DATTARAM KALOKHE AND
ANR.

...Respondents.

Mr C. Padgaonkar, Advocate for the applicant.

Mr S. Sarmalkar, Advocate for respondent nos. 1 and 2.

CORAM: B. P. DESHPANDE, J
DATED: 12th July 2024

ORAL ORDER

1. Heard Mr C. Padgaonkar, learned counsel for the applicant and Mr S. Sarmalkar, learned counsel for the respondent nos. 1 and 2.

2. Though the matter is coming up for the first time, private notice was issued upon which Mr Sarmalkar appeared on behalf of respondent nos.1 and 2. He undertakes to file vakalatnama on behalf of the respondent nos.1 and 2 during the course of the day.

3. Since the dispute in the present proceedings is revolving around the admission on the part of the respondents/defendants in

their written statement, the present revision is taken up for final disposal at the admission stage.

4. Mr Padgaonkar would submit that the applicant filed a suit for declaration and consequential reliefs against the defendants/respondents, claiming that they are the exclusive owner in possession of the suit property and that defendants/respondents relinquished their share by executing a document.

5. Summons were issued to the respondents by the Civil Court, upon which they appeared and filed written statement. Mr Padgaonkar submits that the written statement filed by the respondents/defendants clearly admits all the contentions raised in the plaint, thus nothing remains to be decided. Accordingly, the applicant/plaintiff filed an application for passing of the judgment on admission. However, the trial Court, by a cryptic order, rejected such application on the ground that declaration is sought over title and hence it is necessary to conduct inquiry for the plaintiff to prove his title.

6. Mr Sarmalkar appearing for the respondents would submit that respondents by clearly admitting in their written statement that they do not have any right over the suit property as they have already

relinquished their right and further both the respondents/defendants are having no objection if the prayer is allowed.

7. With this background, it is the contention of Mr Padgaonkar that learned trial Court ought to have decreed the suit.

8. Applicant filed a suit for declaration with following prayers:-

- a. *That this Hon'ble Court be pleased to pass a Judgment and decree of declaration declaring the plaintiff to be the exclusive owner in possession and enjoyment of the suit properties bearing survey No. 129/0, 16/14, 21/13, 96/1, 96/2, 240/2, 240/4, 240/6, 104/1 of village Mandrem, Property bearing survey 111/1 and 109/3 of village Penha-De-Franca and Survey no. 387/4 of Village Soccoro;*
- b. *That the plaintiff be declared as co- owner of undivided share pertaining to property bearing Survey No. 110/1 of village Penha-De-Franca, properties bearing survey Nos. 95/3, 95/5, 95/6, 95/8, 95/9, 95/11, 95/15, 95/16, 96/2, 3/7, 19/0, 103/1, 95/16, 95/17 of Village Mandrem and properties bearing survey Nos. 159/4, 159/5, 159/6, 159/7, 159/8, 159/9, 159/10, 159/11, 159/12, 159/13 and 159/14 of Village Morgim, to an extent of 50% share;*
- c. *That the defendants or his agent be restrained in selling/alienating/creating any third party*

right to the suit properties,

- d. That any other order be passed deemed fit and proper be passed in facts and circumstances of this case.*

9. On receipt of the summons, defendant nos.1 and 2 appeared and filed their written statement duly verified on 7.12.2023. Written statement read thus:-

***WRITTEN STATEMENT OF DEFENDANT NO.1
AND 2***

MAY IT PLEASE YOUR HONOUR:

- 1. These Defendants have been served with a copy of the plaint along with list of documents.*
- 2. These Defendants are not contesting the said suit claim since they have already relinquished the right to the said properties and that they don't want to be part of litigation unnecessarily.*
- 3. The Defendants has no objection if prayer containing in the plaint is granted and decree be drawn accordingly in favor of the plaintiff.*
- 4. Considering the aforesaid circumstances, it is just and necessary Hon'ble Court be pleased to pass decree in favor of the plaintiff as per the relief Claimed in the suit. |*

PRAYER

It is, therefore, prayed that the suit be decreed as per the prayer in the plaint."

Pernem

7.12.2023

Sd/-

Mrs. Asmita Sanjay Nadkarni

Sd/-
Mr. Sanjay Vasant Nadkarni

10. Perusal of the above written statement would clearly reveal that contents of the plaint have been fully admitted and in fact defendant nos. 1 and 2 even prayed that suit be decreed as prayed in the plaint. Provision of Order 12 Rule 6 of CPC empowered the Court to pass a judgment on admission. Said provision reads thus:-

“Under Order 12 Rule 6, the Courts have the power to make a judgement in regards to any oral or written admission made by the parties at any stage of the proceedings. Such admission may be made in the pleading or otherwise.”

11. In the case of **Karan Kapoor Vs Madhuri Kumar**,¹ the Apex Court in paragraph 16 observed thus:-

“16. Thus, legislative intent is clear by using the word ‘may’ and ‘as it may think fit’ to the nature of admission. The said power is discretionary which should be only exercised when specific, clear and categorical admission of facts and documents are on record, otherwise the Court can refuse to invoke the power of Order XII Rule 6. The said provision has been brought with intent that if admission of facts raised by one side is admitted by other, and the Court is satisfied to the nature of admission, then the parties are not compelled for fullfledged trial and the judgment and order can be directed without taking any evidence. Therefore, to save the time and money of the Court and respective

¹ (2022) 10 SCC 496

parties, the said provision has been brought in the statute. As per above discussion, it is clear that to pass a judgment on admission, the Court if thinks fit may pass an order at any stage of the suit. In case the judgment is pronounced by the Court a decree be drawn accordingly and parties to the case is not required to go for trial.”

12. In the case of **Uttam Singh Dugal and Co. Ltd Vs Union Bank of India and ors.**² the Apex Court in paragraph 11 observed thus:-

“11 As to the object of the Order XII Rule 6, we need not say anything more than what the Legislature itself has said when the said provision came to be amended. In the objects and reasons set out while amending the said rule, it is stated that “where a claim is admitted, the court has jurisdiction to enter a judgment for the plaintiff and to pass a decree on admitted claim. The object of the Rule is to enable the party to obtain a speedy judgment at least to the extent of the relief to which according to the admission of the defendant, the plaintiff is entitled.” We should not unduly narrow down the meaning of this Rule as the object is to enable a party to obtain speedy judgment.

Where other party has made a plain admission entitling the former to succeed, it should apply and also wherever there is a clear admission of facts in the face of which, it is impossible for the party making such admission to succeed.”

13. The purpose of order 12 Rule 6 of CPC is to shorten the litigation once the claim of the plaintiff is either partly or fully

² AIR 2000 SC 2740

admitted by the defendants. Once there is clear admission, it is considered as best evidence, insisting the plaintiff to prove his case would be clearly a futile exercise, for the simple reason that such claim is already admitted by another side and such admission has not been withdrawn. Even the respondents who appeared before this Court did not dispute about the contents of the written statement filed before the trial Court.

14. Impugned order passed by the trial Court would clearly reveal that the Court also did not dispute the admission on the part of the defendants however, insisted the plaintiff to prove his case since there is prayer for declaration of title. Such observation of the trial Court is clearly against the settled proposition of law and more particularly against the admitted fact. Contents of the plaint are not at all disputed including the documents which are referred to in the pleading itself. It thus shows that the defendants admitted about execution of the relinquishment deed and thereby giving their rights over the said property.

15. In such circumstances, asking the plaintiff to prove his case by stepping into the witness box would be to disbelieve the admission on the part of the defendants. No purpose would be served once the contents of the plaint are admitted. Even otherwise the suit as prayed

needs to be decreed in view of the clear admission on the part of the defendants/respondents.

16. Learned trial Court failed to exercise jurisdiction available with it in proper manner and accordingly such order needs interference in the present proceedings.

17. The impugned order dated 12.6.2024 below Exh. D-12 is hereby quashed and set aside. Application filed by the plaintiff at D-12 for passing of the judgment is allowed.

18. Learned trial Court is therefore directed to pass the decree in accordance with Order 12 Rule 6 of CPC on admission.

19. Revision stands disposed of in the above terms.

BHARAT P. DESHPANDE, J