



2025 INSC 595

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No(s). OF 2025
ARISING OUT OF SLP (C) No(s). OF 2025
DIARY NO. 10634 OF 2024

**FILOMENA SALDANHA THROUGH POWER OF
ATTORNEY MR. FRAZIER SALDANHA** ...APPELLANT(S)

VERSUS

**SUNIL KOHLI REPRESENTED BY HIS
POWER OF ATTORNEY,
MR. NAVAL BOWRY, & ORS.** ...RESPONDENT(S)

J U D G M E N T

PAMIDIGHANTAM SRI NARASIMHA, J.

1. Delay condoned. Leave granted.
2. These appeals are directed against the order dated 28.02.2023 passed by the High Court of Judicature at Bombay at Goa in an Application for Speaking to Minutes in Misc. Civil Application No. 176/2022 in Writ Petition No. 157 of 2019; and order dated 18.01.2024 of the High Court in Review Application

Signature Not Verified

Digitally signed by
KAPIL TANDON
Date: 2024-04-29
18:43:24 IST
Reason:

(Civil) No. 10/2023 dismissing the review petition.

3. Brief facts necessary for the disposal of these appeals are as follows. The respondent filed an appeal under Section 66(2) of the Goa Panchayat Raj Act, 1994¹ before the Deputy Director of Panchayats challenging the Village Panchayat's refusal to issue a construction licence in his favour. This licence would have allowed the respondent to raise a construction on his land, which is adjacent to the land of the appellant. The Deputy Director of Panchayats allowed the appeal by an order dated 29.01.2013 and directed the Village Panchayat to grant the construction licence. Claiming that this construction would adversely affect the pathway, the appellant challenged the order of the Deputy Director of Panchayats by way of an appeal before the Director of Panchayats under Section 66(7) of the Panchayat Act. The appeal came to be allowed by an order dated 03.07.2015. The respondent challenged this order in a revision application before the District Judge-IV, South Goa² under Section 201-B of the Panchayat Act along with an application to condone the delay of 122 days (alleged to be 360 days as per the appellant) in filing the revision.

4. The District Judge by its order dated 08.01.2019 condoned the delay by applying Section 14 of the Limitation Act and excluded

¹ Hereinafter referred to as the 'Panchayat Act'.

² Hereinafter referred to as the 'Ld. District Judge'.

the time spent by the respondent in pursuing a writ petition before the High Court, which was eventually withdrawn. Questioning the legality of condoning the delay, the appellant filed Writ Petition No. 157 of 2019 before the High Court and sought setting-aside of the order dated 08.01.2019.

5. Pending disposal of the Writ Petition, it appears that there was some kind of settlement between the parties. The respondent made a statement before the High Court that he is ready to leave access, to the extent of 3 meters of pathway as directed by the Director of Panchayats in the order dated 03.07.2015. It was also submitted that respondent was ready to withdraw the revision application pending before the Ld. District Judge. In view of the settlement, the High Court passed an order dated 02.03.2022 disposing of the writ petition, holding as follows:-

“7. In fact, the learned Counsel appearing for the respondent no. 1 has instructions to state that the said respondent is withdrawing the Civil Revision Application filed before the District Court.

8. Once the aforesaid statement is made, nothing remains in the present Writ Petition, for the reason that the order challenged in the present Writ Petition is an order passed by the District Court condoning the delay in filing the revision application. When the respondent no 1 has made a statement before this Court that he is withdrawing the Civil Revision Application itself filed before the District Court, obviously, this Court is no longer called upon to decide as to whether the delay was properly condoned by the District Court or not.

9. *In view of the above, the Writ Petition is disposed of by recording the statement made on behalf of the respondent no 1 that he shall provide access of 3 mts as per clause (4) of the judgment and order dated 03.07.2015, passed by the Director of Panchayats. On the statement made on behalf of respondent no. 1, it is recorded that the Civil Revision Application filed by the respondent no. 1 before the District Court bearing Civil Revision Application no. 5 of 2019 stands withdrawn. Accordingly, the said Civil Revision Application stands disposed of.*

10. *Nothing remains to be examined in the present Writ Petition and accordingly, the Writ Petition is disposed of as having become infructuous.*

11. *It is made clear that the order passed today is restricted to the present Writ petition and that if there are any other proceedings pending between the parties, they shall be decided on their own merits in accordance with law, uninfluenced by the order passed today in this Writ Petition.”*

6. Subsequently, respondent filed an ‘Application for Speaking to the Minutes’ bearing number Misc. Civil Application No. 176/2022 in the same writ petition, stating that the order dated 02.03.2022 did not clarify the exact location of the access path. The respondent sought a clarification that the said access was to be maintained all along the western boundary shown on the plan marked as ‘X’. The relevant portion, in fact the only portion which deals with the plea, coupled with the prayer in the application are extracted hereinafter below for ready reference:-

“11. That however whilst stating so it was not clarified that the access to be maintained was all along the western boundary as shown on the plan marked as “X”.

12. That on account of the non-mention of the above, there may arise some confusion at any later point of time.

13. It is therefore respectfully submitted that the Para 9 of the Order dated 02.03.2022 be please clarified so as to record that the Applicant shall maintain an access of 3.00 metres all along the Western boundary of the Property as depicted on the Plan marked as X in the Order dated 27.01.2022.

14. The Petitioner therefore prays that:

PRAYER

- A. The Application be allowed.
- B. The Para 9 of the order dated 02.03.2022 be please clarified to the extent of recording that the access to be maintained is along the western boundary as depicted on the Plan marked as "X" in the Order dated 27.1.2022.
- C. Any other Order as may be deemed fit and proper by this Hon'ble Court."

7. The High Court took up the said application for hearing and by way of the first impugned order dated 28.02.2023 allowed the same, reasoning that failing this specification there would be no clarity on what precisely qualifies as the existing access path. The relevant portion of the order passed by the High Court is as follows:

"6. Simply put, Paragraph 9 of the Order dated 2nd March 2022 shall now read as under:-

"9. In view of the above, the Writ Petition is disposed of by recording the statement made on behalf of the respondent no. 1 that he shall provide access of 3 metres as per clause (4) of the Judgment and Order dated 3.7.2015, passed by the Director of Panchayats and as reflected in the plan taken on record by this Court on 27th January 2022 and marked as 'X' for identification. On the statement made on behalf of Respondent No. 1, it is recorded that the Civil Revision Application filed by the Respondent No. 1 before the District Court bearing Civil Revision Application No. 5

of 2019 stands withdrawn. Accordingly, the said Civil Revision Applications stands disposed of.”

7. *The above Application is disposed of in the aforesaid terms. However, there shall be no Orders as to costs.*

8. *It is needless to clarify that this Order shall not in any way prejudice the proceedings filed by the Petitioners in Special Civil Suit No. 10 of 2013. Any Orders that are to be passed in that Suit shall be based on their own merits uninfluenced by the Orders passed in the present Writ Petition.*

9. *This Order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.”*

8. As against the above extracted order disposing of the writ petition, by accepting the respondent's modification as per the 'Application for Speaking to the Minutes,' the appellant filed a Review Application (Civil) No. 10 of 2023, which came to be dismissed by the second impugned order before us.

9. We have heard the submissions made by the 1d. counsels appearing for the parties. To begin with, it is the contention of the appellant that the Application for Speaking to the Minutes dated 14.04.2022 which was filed almost after a month of the order passed by the High Court, it came to be disposed of one year thereafter. Further, the appellant submitted that the plan tendered by the respondent to the High Court showing the access path was never accepted by the appellant and that the plan which is part of

the record before the Director of Panchayat is the only true depiction of the site. Furthermore, the High Court has treated the application for modifying an order as if it were exercising review jurisdiction, which is impermissible as such applications may only enable courts to correct clerical or typographical errors. As regards the second impugned order, the appellant submitted that the High Court has not addressed the grievances of the appellant on the merits of the matter but has taken exception to the appellant moving the review application before another bench.

10. Having considered the contention of both the parties, we are of the opinion that the interests of justice will be subserved if the appellant is given an opportunity to contest the Application for Speaking to the Minutes. At the same time, the respondent should also have the opportunity to seek the modification and rectification that he has sought in his application.

11. In view of the above, we allow the appeals by setting aside the impugned orders dated 28.02.2023 and 18.01.2024 passed in Misc. Civil Application No. 176/2022 in Writ Petition No. 157 of 2019 and in Review Application (Civil) No.10/2023 and restore the application Misc. Civil Application No. 176/2022 to its original number. The said application shall be taken up and disposed of on

its own merits after giving an opportunity to both the parties, keeping in mind the scope of such applications as pronounced by this Court in ***Akhil Bhartvarshiya Marwari Agarwal Jatiya Kosh & Ors v. Brijlal Tibrewal & Ors.***³. We make it clear that we have not expressed any opinion on the merits of the matter. It is for the High Court to consider and dispose of the application on its own merit after giving an opportunity to both the parties.

.....J.
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.
[JOYMALYA BAGCHI]

NEW DELHI;
APRIL 29, 2025

³ 2018 INSC 1215.