

2023 LiveLaw (SC) 783 : 2023 INSC 825

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
BELA M. TRIVEDI; J., DIPANKAR DATTA; J.
CIVIL APPEAL NO. 5510 OF 2023; 13.09.2023

VASANT NATURE CURE HOSPITAL & PRATIBHA MATERNITY HOSPITAL TRUST & ORS.
versus
UKAJI RAMAJI-SINCE DECEASED THROUGH HIS LEGAL HEIRS & ANR.

Civil Law - Practice of filing several miscellaneous civil applications (MCA) for seeking review of the judgment passed in Second Appeal – Held, no litigant should be permitted to misuse the process of law through vexatious applications. (Para 8)

For Appellant(s) Mr. I. H. Syed, Sr. Adv. Mr. Varinder Kumar Sharma, AOR Ms. Deeksha Gaur, Adv. Mr. Shantanu Sharma, Adv. Mr. Aniq Kadri, Adv. Mr. Prithu Parimal, Adv. Mr. Ankit B. Pandya, Adv. Mr. Jigar Rawal, Adv. Mr. Avinash Kumar Bharti, Adv.

For Respondent(s) Mr. Ankit Acharya, AOR

J U D G M E N T

BELA M. TRIVEDI, J.

1. The appellants by way of present appeal have challenged the legality and validity of the impugned judgment and order dated 27.09.2022 passed by the High Court of Gujarat at Ahmedabad in Misc. Civil Application (for recall) No. 3 of 2019 in Regular Second Appeal No. 84 of 1997.

2. The appellants run a natural therapy center in the name and style of ‘Vasant Nature Care Hospital’ and ‘Pratibha Maternity Hospital Trust’. The Respondent No.1 – Ukaji Ramaji (since deceased, through his legal representatives) was employed as a watchman by the Appellant No. 1 – trust to take care of the said hospitals. He was given one room to reside for discharging his duties as watchman. On 25.06.1979, the appellant trust had relieved the said Ukaji Ramaji from his duties, he having started indulging in illegal activities. The said Ukaji preferred Regular Civil Suit No. 306 of 1979 against the appellant - trust seeking declaration that the suit premises was of his ownership. He also sought permanent injunction for restraining the appellants from interfering with his possession of the suit premises. The said suit came to be dismissed by the trial Court, vide the judgment and decree dated 30.07.1988. Being aggrieved by the said judgment and decree, the said Ukaji preferred a Regular Civil Appeal being No. 67 of 1988 before the Extra Assistant Judge, Ahmedabad (Rural). The said appeal came to be allowed by the Appellate Court vide the judgment and order dated 31.03.1997, in which it was held that the said Ukaji held an irrevocable license over the suit property and such license could be terminated only after giving a month’s notice. The aggrieved appellants preferred the Second Appeal being No. 84 of 1997 before the High Court of Gujarat. The said Second Appeal came to be allowed by the High Court vide the judgment and order dated 11.10. 2012. The said Ukaji having expired pending the Second Appeal, his legal heirs had preferred a SLP being SLP(Civil) No. 1373 of 2013 before this Court. In the said SLP following order was passed by this Court on 28.01.2013 –

“Mr. Fakharuddin, learned senior counsel for the petitioners, seeks withdrawal of the special leave petition as petitioners intend to file review application before the High Court. Special leave petition is dismissed as withdrawn”.

- 3.** As transpiring from the said order of this Court, the SLP was simply dismissed as withdrawn after recording the statement of the counsel for the respondents (i.e., SLP petitioners). However, about three years thereafter i.e., 23.03.2016, the respondents preferred MCA being No. 01 of 2016 in Second Appeal No. 84 of 1997, seeking review of the judgment and decree dated 11.10.2012. The said MCA for review in Second Appeal came to be dismissed for non-prosecution by the High Court on 11.04.2016.
- 4.** Thereafter the respondents filed another MCA being No. 02 of 2016 seeking restoration of the review application i.e., MCA No. 01 of 2016. The said MCA being No. 02 of 2016 also came to be dismissed for non-prosecution by the High Court on 30.11.2016, along with the application seeking condonation of delay.
- 5.** The respondents again filed an MCA being No. 01 of 2017 seeking restoration of the MCA No. 01 of 2016. The said MCA No. 1 of 2017 also was dismissed by the High Court for non-prosecution vide the order dated 08.03.2017. Another application being MCA No. 01 of 2018 was filed by the respondents for restoration. The said MCA No. 01 of 2018 also came to be dismissed for non-prosecution.
- 6.** Yet again the respondents filed another application being MCA No. 01 of 2019 for restoration, which also came to be dismissed for want of prosecution on 14.10.2019. Thereafter, another MCA No. 03 of 2019 was filed for restoration in MCA No. 01 of 2019. The said application came to be allowed by the High Court vide the impugned order with cost of Rs.15,000/-.
- 7.** Heard learned counsel for the parties.
- 8.** From the afore-stated state of affairs, it clearly emerges that though this Court had not granted any specific permission to file any application seeking review of the judgment and decree passed in Second Appeal No. 84 of 1997 in the SLP(Civil) No. 1373 of 2013, after a period of more than three years, the respondents had preferred the MCA No. 01 of 2016 seeking review of the said judgment in Second Appeal. The said MCA No. 01 of 2016 having been dismissed for want of prosecution, the respondents kept on filing one after the other Miscellaneous Civil Applications i.e., 02 of 2016, 01 of 2017, 01 of 2018 and 01 of 2019. All these applications were dismissed for want of prosecution. Under the circumstances, there was no question of allowing the MCA No. 03 of 2019 seeking restoration of MCA No. 01 of 2019. The High Court without assigning any reason whatsoever and in very casual manner has allowed the said application i.e., MCA (for restoration) No. 03 of 2019 in MCA (for restoration) No. 01 of 2019. No litigant should be permitted to be so lethargic and apathetic much less should be permitted to misuse the process of law, as the respondents have sought to do. The High Court had committed gross error in allowing such vexatious applications and that too without assigning any reason.
- 9.** In that view of the matter, the impugned order passed by the High Court to the extent it allowed MCA (for restoration) No. 03 of 2019 in MCA No. 01 of 2019, is set aside, however the respondents shall deposit the cost of Rs.15,000/- as directed by the High Court. The appeal stands allowed accordingly.