

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 267 OF 2015

MR. FILOMENO VINCENTE GREGORIO
TOMATURGO RODRIGUES AND ANR.,

... Petitioners

Versus

UNION OF INDIA THR. MINISTRY OF
ENVIRONMENT AND FOREST (MOEF),
GOVT. OF INDIA, THR. ITS
SECRETARY.,

... Respondent

Mr. S. M. Walawaikar, Advocate for the Petitioners.

Coram:- F. M. REIS, J.

Date:- 4th July, 2015

ORAL ORDER

Heard Shri Walawaikar, learned Counsel appearing for the
Petitioners.

2. The above Writ Petition takes exception to an Order passed by
the learned District Judge, South Goa, at Margao, dated 01.10.2014,
whereby an application filed by the third party for intervention came
to be allowed.

3. Mr. Walawaikar, learned Counsel appearing for the Petitioners,
pointed out that the suit filed by the Petitioner is for a declaration of
ownership as against the Union of India and State Government and,
as such, the third party-Respondent no. 7 has no locus standi as such.
The learned Counsel further pointed out that any independent rights

claimed by the Respondent no. 7 would have to be adjudicated in proper forum and not in a suit filed by the Petitioners. Learned Counsel further pointed out that the learned Judge has acted in material irregularity in allowing the intervention of such third party when there is no nexus shown by the Respondent no. 7 with the lis pending before the Court. The learned Counsel further pointed out that the law is well settled that only a necessary party whose presence is required to grant an effective Decree can be impleaded under Order 1 Rule 10 of the Civil Procedure Code and considering the averments made in the application, the Respondent no. 7 is not at all required for the purpose of passing the Decree sought by the Petitioners. The learned Counsel has thereafter taken me through the plaint as well as the reliefs sought in the suit to point out that the Respondent no. 7 is not at all affected with any of the reliefs sought by the Petitioners and, consequently, there is an error of jurisdiction committed by the learned Judge which calls for interference of this Court under Article 227 of the Constitution of India.

4. I have considered the submissions of the learned Counsel appearing for the Petitioners and I have also gone through the records. The application filed by the Respondent no. 7 itself establishes that the Respondent no. 7 had in fact filed a complaint with regard to alleged irregularities committed by the Petitioners in the subject property. In such circumstances, the contention of the learned Counsel that he has no nexus with the dispute raised by the

Petitioners, prima facie, cannot be accepted. In any event, it is contended by the learned Counsel for the Petitioners that the suit filed is due to an error in determining the High Tide Line at the site and as such claiming that an area shown as the Arabian Sea is part and parcel of the property of the Petitioners.

5. Considering such avernment, I find that the contention of Mr. Walwaikar, learned Counsel appearing for the Petitioners, is that the Respondent no. 7 has no say in such matter is not at all justified. I find no jurisdictional error committed by the learned Judge whilst passing the impugned Order, which would call for interference in such Order.

6. Mr. Walwaikar, learned Counsel appearing for the Petitioner, thereafter pointed out that such intervention may delay the disposal of the suit filed by the Petitioners. As such, the learned Judge shall ensure that the suit filed by the Petitioners is not delayed on that count and try and dispose of the suit as expeditiously as possible.

7. Subject to the above, the Petition stands rejected.

F. M. REIS, J.

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