

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 230 OF 2015

MRS NEELA ARUN HOSKOTE, THROUGH POA, MOHAN ANNAJI HOSKOTE.	... Petitioner
Versus	
MR. CHANDRASHEKAR R.S. KAKODKAR AND 4 ORS.,	... Respondents

Mr. G. Agni, amicus curiae.

Coram:- M. S. SANKLECHA, J.

Date:- 6th April, 2015

P.C.:

The petitioner herein in 78 years of age who has filed this petition through her Power Attorney, who is 80 years of age. The Power of Attorney holder of the petitioner was appearing in person. At my request, Mr. G. Agni, learned advocate appeared as a amicus curiae in the petition.

2. In brief, the case of the petitioner is that her husband, who was the original owner of a flat situated at Vasco da Gama (suit flat) had filed an eviction proceedings against the tenants, on the ground that they had acquired an alternate accommodation. The Rent Controller passed an order dated 11/1/2013 in favour of the petitioner evicting the tenants. Being aggrieved, the tenants have filed an appeal before the District Court. The appeal before the District Court is still pending.

3. This petition has been filed for the following reliefs:

- (a) the Inventory proceedings No.3/2006/A datd 6/10/2006 should be declared null and void.
- (b) The Principal District Court at Margao be directed to dismiss the Respondents' Appeal forthwith with costs and
- (c) The Respondents should be asked to pay a penalty house rent of Rs.5160/- per month to my POA, from the month onwards in which the false Affidavit was filed, namely September 2006, before the Civil Court, Senior Division, Vasco-da-Gama, Goa and
- (d) The Respondents should be awarded any other punishment that they deserve for filing a false Affidavit before the Court of law.

4. The Inventory proceedings which are sought to be declared null and void are in respect of the proceedings taken by the tenants in the Inventory Court. It is the case of the petitioners that orders were fraudulently obtained from the Inventory Court by suppressing the pending eviction proceedings before the Rent Controller. The relief in terms of prayer clause "a" would be available to the petitioner by challenging the order passed by the Inventory Court in an independent appeal before the Appeal Court. The same cannot be entertained by this Court. So far as the prayers clauses "b", "c" and "d" are concerned, they are all matters pending before the Principal District Court at Margao in the appeal filed by respondents from the

order dated 11/1/2013 of the Rent Controller. The petitioner could agitate her above grievance before the Principal District Court at Margao in the appeal filed by the evicted tenants. Thus, prayer clauses "b", "c" and "d" also cannot be granted by this Court. Accordingly, the petition is dismissed.

5. However, before parting it needs to be noticed that the petitioner is 78 years of age and her Power of Attorney holder is 80 years of age. Keeping their age in view, the Principal District Court at Margao is requested to decide the appeal filed by the evicted tenants against the order dated 11/1/2013 of the Rent Controller as expeditiously as possible and preferably within six months from today.

6. I would like to place on record my thanks to Mr. G. Agni for rendering assistance to the Court in this petition.

M. S. SANKLECHA, J.

ap/-