

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 229 OF 2015

SHRI. SEBASTIAO DIAS AND ANR., ... Petitioners
Versus
MRS. MARGARITA NATALIA REBELLO AND
3 ORS., ... Respondents

Shri Galileo Francisco Teles, Advocate for the Petitioners.

Coram:- C. V. BHADANG, J.

Date:- 16th September, 2015

ORAL ORDER :

Heard Shri G. Teles, the learned Counsel for the petitioners.

2. By this petition, the petitioners who are the original plaintiffs are challenging the order dated 16/01/2015 passed by the learned Civil Judge, Junior Division, Margao in Regular Civil Suit No.18/2013/C. By the impugned order, the learned Trial Court has allowed the application (Exhibit D-29) filed by the respondents No.1 & 4 (original defendants no.1 & 4) for production of a document, namely the report dated 20/01/2014 submitted by the Inspector of Survey and Land Records, Margao to the Deputy Collector and SDO.

3. The petitioners have filed a suit against the respondents for declaration that the Deed of Rectification dated 8/09/2011 is null and void and for permanent injunction against the respondents no.1 & 4

from dispossessing the petitioners or otherwise interfering with their possession of a portion admeasuring 45.17 square metres of the suit property as per the plan annexed to the plaint.

4. Indisputably, the temporary injunction is operating in favour of the petitioners. It is further undisputed that the trial in the suit is yet to commence. In such circumstances, the defendants no.1 & 4 filed an application for leave to produce the additional document. The defendants no.2 & 3 gave their no objection. However, the application was opposed on behalf of the petitioners on the ground that there are no pleadings in the written statement about the document and also the document is not genuine.

5. I have heard Shri G. Teles, the learned Counsel for the petitioners. It is submitted that the Trial Court has not considered the reply filed by the petitioners opposing the application for production and by one line order, the production is allowed.

6. I have considered the circumstances and the submissions made. In this case, the written statement is filed in April, 2013. Thus, it is not expected that the same would contain a reference or pleading with reference to the report dated 20/01/2014 which is now sought to be produced. In so far as the objection regarding genuineness of the document is concerned, that cannot be considered at the stage of mere production. It is trite that the production of the document

marking it as exhibit, treating it as proved and examining the relevancy and the probative value are all distinct aspects. The petitioners would get an opportunity to challenge the genuineness of the document, if so advised at the trial. There is no prejudice demonstrated as the trial is yet to commence. In that view of the matter, no case for interference is made out. In the result, the Writ Petition is dismissed.

C. V. BHADANG, J.

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