

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.405 OF 2014**

Shri Shripad S.S. Singbal,
85 years of age,
Married, business,
Resident of H.No.30/A,
Guirija – Shankar, Davorlim,
Navelim, Salcete-Goa.

.... Petitioner

V/s

1. The Deputy Collector & SDO,
Ponda Sub Division,
Ponda-Goa.
2. Shri Saju Pundu Shilkar,
Major of age, Married,
Resident of Savoiverem,
Ponda-Goa.
3. Comunidade of Savoiverem,
Represented by its Attorney,
Shri Prabhakar Vinayak Nigalye,
Residing at Savoiverem,
Ponda-Goa.

.... Respondents.

Shri A.D. Bhobe, Advocate for the Petitioner.

Shri Pravin Faldessai, Additional Government Advocate for Respondent No.1.

Shri Iftikhar Agha, Advocate for Respondent No.2.

Shri R. Menezes, Advocate for Respondent No.3.

CORAM : N.M. JAMDAR, J.

DATE : 3rd FEBRUARY, 2015

ORAL JUDGMENT :

Rule. Rule made returnable forthwith. Respondents waive service. Taken up for hearing.

2. A short issue raised in this petition as to whether the Deputy Collector was right in refusing to entertain the appeal without the petitioner first obtaining No Objection from the Revenue Department.

3. The petitioner had filed a statutory appeal from the order passed by the Mamlatdar rejecting his application for carrying out correction in revenue record. The Deputy Collector by the

impugned communication informed the appellant that his appeal cannot be taken up for consideration unless he produces No Objection from the Revenue Department. The Deputy Collector relied upon the circular issued on 10 July 2009 and 30 July 2008.

4. Shri Bhobe submitted that the circulars dated 10 July 2009 and 30 July 2008 are not applicable in the facts of the present case, as the petitioner is seeking changes in the revenue record on the basis of a decree of the Court.

5. It is not necessary to consider the petition on merits as the Deputy Collector can always take up this issue at the time of hearing of the appeal. Once a statutory appeal is provided, it will not be proper to put precondition to even entertain the appeal. The appeal can always be dismissed on the ground that No Objection Certificate is not obtained, if such a permission is a mandatory provision. Placing the precondition of this nature will preclude the petitioner from putting forth

his argument regarding the applicability of the circulars.

6. In the circumstances, the communication dated 11 March 2014 is quashed and set aside. The Deputy Collector will decide the appeal of the petitioner on merits. It will be open to the Deputy Collector to take up the issue as regard the applicability and requirement of the circulars dated 10 July 2009 and 30 July 2008, at the outset, if the Deputy Collector is inclined to do so. All contentions of the parties in all respects are kept open. The petition is accordingly disposed of in above terms. No costs.

N.M. JAMDAR, J.

NH/-