

**IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 399 OF 2014**

SHRI. BHAGWANT SADANAND KAMAT ... Petitioner

Versus

SMT. DWARKI KASHINATH NAIK REP. BY

HER P.O.A. SHRI. SHANTARAM K. NAIK

AND 2 ORS. ... Respondents

Mr. J. P. Mulgaonkar, Advocate for the Petitioner.

Mr. Preetam Talaulikar, Advocate for Respondent No.1.

Coram:- N. M. JAMDAR, J.

Date:- 20 February 2015

ORAL ORDER :

By this petition, the petitioner challenges the order passed by the Administrative Tribunal, Goa dated 28 February 2014 allowing the revision application filed by the respondent no.1 and remanding the proceedings back to the Joint Mamlatdar, Ponda to hold an inquiry.

2. The respondent no.1 had initiated proceedings claiming that she is the tenant of the property in question. The property is situated at Village Kundaim, Taluka Ponda. Initially respondent no.1 had claimed that respondents no.1 & 2 are landlords. Subsequently, respondent no.3 was allowed to be joined in the proceedings. Respondent no.3 expired and his legal representatives were not brought on record. When the

proceedings reached the Tribunal, the Tribunal found that the petitioner claiming himself to be the heir of respondent no.3 was already part of the proceedings and, therefore, technically objection regarding abatement as regard respondent no.3 could not come in the way of respondent no.1. The Tribunal also made certain observations on merits of the matter while remanding the proceedings.

3. I am not inclined to interfere with the order of remand. All that the Tribunal has done is to direct the Mamlatdar to hold a fresh inquiry. However, it is clarified that any observation made on merits of the matter by the Tribunal will have to be treated as prima facie as the matter will have to be reconsidered on merits again. It is clarified that the respondent no.3 will be entitled to take all objections on merits by filing appropriate replies. However, I am not inclined to accept the submission of Mr. Mulgaonkar that the issue of abatement should also be kept open, as the petitioner is already now part of the proceedings. The respondent no.1 will make a formal amendment to join the petitioner as party respondent in the proceedings below.

4. In view of these clarifications, no further orders are required to be passed in this petition. The petition is disposed of in the above terms. Interim relief granted in this petition stands vacated.

N. M. JAMDAR, J.

NH/-