

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 356 OF 2015

SHRI. SHIVA K. DEVLI @ KERKAR
(SINCE DECEASED) THROUGH HIS LEGAL
HEIRS.,

... Petitioner

Versus

SMT. RAMABAI S. KERKAR AND 14
ORS.,

... Respondents

Mr. S. Y. Thaly, Advocate for the Petitioners.

Mr. V. A. Lawande, Advocate for Respondents no.1, 3 and 4.

Ms. Susan Linhares, Addl. Government Advocate for R.no. 15

Coram:- C. V. BHADANG, J.

Date:- 10th September, 2015

P.C.:

Heard Mr. Thali, the learned counsel for the petitioner, Shri Lawande, the learned counsel for the respondents no.1,3 and 4 and Ms. Linhares, the learned Additional Government Advocate for respondent no.15.

2. By this petition, the petitioners, who are the original non-applicants before the Mamlatdar in an application under Sections 7, 8A and 14 of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (the Act, for short) are challenging the order dated 29/9/2014 passed by the Mamlatdar granting injunction in favour of the respondents no.1,3 and 4.

3. It is undisputed that before the impugned order was passed, the provisions of the Act were amended by the Amending Act namely, Goa, Daman and Diu Agricultural Tenancy (Amendment) Act 2014 w.e.f 25/9/2014, by which the jurisdiction to entertain such application has been transferred from the Mamlatdar to the Senior Civil Judge. In that view of the matter, the impugned order passed on 29/9/2014 will have to be set aside being without jurisdiction. In such circumstances, the petition is allowed. The impugned order is hereby set aside and the application for temporary injunction is hereby dismissed. It would however be open to the Civil Court to consider such application, if any, on its own merits. The rival contentions of the parties are kept open.

4. In the circumstances, there shall be no orders as to costs.

C. V. BHADANG, J.

ap/-