

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 567 OF 2014

1. Shri Shankar Gopal Bhandari
(since deceased), through
his legal representatives:
 - a) Smt. Parvati S. Bhandari,
wife of late Shankar G. Bhandari,
major of age, Indian National,
residing at Dhadem, Sanvordem-Goa.
 - b) Shri Stachit Shankar Bhandari,
major of age, Indian National,
residing at Dhadem, Sanvordem-Goa.
 - c) Smt. Sandya Satchit Bhandari,
major of age, Indian National,
residing at Dhadem, Sanvordem-Goa.
 - d) Shri Ulhas Shankar Bhandari,
major of age, Indian National,
residing at Dhadem, Sanvordem-Goa.
 - e) Smt. Nirmala Ulhas Bhandari,
major of age, Indian National,
residing at Dhadem, Sanvordem-Goa.
 - f) Shri Narendra Shankar Bhandari,
major of age, Indian National,
residing at Dhadem, Sanvordem-Goa.
 - g) Smt. Lata Narendra Bhandari,
major of age, Indian National,
residing at Dhadem, Sanvordem-Goa.
 - h) Shri Vinay Shankar Bhandari,
major of age, Indian National,
residing at Dhadem, Sanvordem-Goa.

i) Smt. Chaya Vinay Bhandari,
major of age, Indian National,
residing at Dhadem, Sanvordem-Goa.

... Petitioners

Versus

1. Shri Pundalik Gangadhar
Sinai Sanvordekar (since deceased),
through his legal representatives:

a) Shri Chandrakant Pundalik
Sinai Sanvordekar, Major of age,
Indian National, residing at
House No. 420(2), Khamamol,
Curchorem, Goa.

b) Smt. Gauri Chandrakant
Sinai Sanvordekar, Major of age,
Indian National, residing at
House No. 420(2), Khamamol,
Curchorem, Goa.

c) Shri Hemakant Pundalik
Sinai Sanvordekar, Major of age,
Indian National, residing at
House No. A-4/F-2, Vijaynagar
Colony, Corlim, Tiswadi, Goa.

d) Smt. Shobha Hemakant
Sinai Sanvordekar, Major of age,
Indian National, residing at
House No. A-4/F-2, Vijaynagar
Colony, Corlim, Tiswadi, Goa.

2. Dr. Upendra Sinai Sanvordekar,
(since deceased), through his
legal representatives:

a) Smt. Leelavati alias
Shilavatibai Upendra
Sanvordekar, major of age,
Indian National, residing at
Moquim, Cuncolim, Salcete-Goa.
(Expired)
[L.R's at Sr.No. 2(b),2(c),3,4,4(a)]

b) Smt. Geeta Chandrakant
Kudchadkar, Major of age,
Indian National, residing at
House No. 4/2777, Shanti
Bungalow, Manuel Gomes Road,
Behind Sanchiyani, Vidyanagar,
Margao, Goa – 403 601.

c) Dr. Chandrakant Kudchadkar,
Major of age, Indian National,
residing at 4/2777, Shanti
Bungalow, Manuel Gomes Road,
Behind Sanchiyani, Vidyanagar,
Margao, Goa – 403 601.

3. Dr. Sandip alias Uday
Upendra Sanvordekar,
major of age, Indian National,
residing at Moquim,
Cuncolim, Salcete-Goa.
4. Smt. Smita alias Deepa
Mahesh Kudchadkar (since deceased)
through her legal representative:

a) Mr. Amey Purshottam
Kudchadkar, major of age,
Indian National, Advocate,
residing at Mungul,
Margao-Goa.

5. Mr. P.V. Kudchadkar alias
Mahesh Kudchadkar,
major of age, Indian National,
Advocate, residing at
Mungul, Margao-Goa.

... Respondents

Shri Devidas Pangam, Advocate for the Petitioners.

Shri Ajit R. Kantak, Advocate for the Respondent Nos. 1(a), 1(b),
1(c), 1(d), 2(b), 2(c) and 5.

CORAM:- C. V. BHADANG, J.

DATE:- 1st SEPTEMBER, 2015.

ORAL JUDGMENT:

Rule. Rule made returnable forthwith. Shri Kantak, learned Counsel waives service on behalf of respondent nos. 1(a), 1(b), 1(c), 1(d), 2(b), 2(c) and 5. None appears for the other respondents. Heard finally with the consent of the parties.

2. By this petition, the petitioners are challenging the order dated 10.04.2014 passed by the learned Deputy Collector and Sub-Divisional Officer, South Goa, Quepem, granting ex-parte stay to the impugned order dated 30.12.2010 passed by the learned Mamlatdar of Sanguem in Case No. MAM/TNC/DECL/8/1999.

3. By order dated 30.12.2010, the learned Mamlatdar has held the petitioners to be Tenants of the property bearing Survey No. 18/1, which is the subject matter of dispute.

4. It is contended by Shri Pangam, the learned Counsel for the petitioners that the appeal, challenging the order of the Mamlatdar is filed by the respondents on 19.04.2011. The appeal was adjourned from time to time. On 03.04.2014, the appeal was adjourned to 26.06.2014. In the meantime, the respondents filed an application on 10.04.2014, for stay of the order dated 30.12.2010 of the Mamlatdar. It is submitted that without issuing a notice or affording hearing to the petitioners, the Deputy Collector has granted ex-parte stay of the order dated 30.12.2010 of the Mamlatdar. It is submitted that there was no pressing need for passing such an order, when the appeal was pending for three years and that too, without issuing notice to the petitioners and without hearing them.

5. It is not disputed that the petitioners have filed a reply thereby seeking vacation of the order. It is contended that, yet no

orders are passed on the prayer for vacating the said order.

6. It is submitted by Shri Kantak, the learned Counsel for the respondent nos. 1(a), 1(b), 1(c), 1(d), 2(b), 2(c) and 5 that on the strength of the impugned order dated 30.12.2010 of the learned Mamlatdar, the petitioners started interfering with possession of the disputed property. As such, an application was moved on 10.04.2014 for grant of stay. It is submitted that the impugned order is *inter alia* based on the interim relief granted by the Civil Court, which is confirmed by this Court. It is submitted that on account of amendment, the jurisdiction to hear and decide the appeal now stands transferred to the District Court. It is therefore, submitted that this Court may direct expeditious hearing of the appeal itself, which now stands transferred to the District Court.

7. In reply, it is submitted by Shri Pangam, the learned Counsel for the petitioners that the appeal alongwith the application for vacating ad-interim relief dated 10.04.2014 may be expedited.

8. On hearing the learned Counsel for the parties and on perusal of the record, I find that the petition could be disposed of on a short count. Accordingly, the petition is disposed of with a direction to the learned District Judge to decide the application for vacating the ex-parte order as expeditiously as possible, and in any case, within a period of one month from today. The learned District Judge shall also proceed to decide the appeal as expeditiously as possible, and preferably within a period of three months from today. All the rival contentions of the parties are kept open.

9. Rule is made absolute in the aforesaid terms with no order as to costs.

C. V. BHADANG, J.

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