

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 656 OF 2015

MR. MENINO SANTANA FERNANDES.	... Petitioner
Versus	
KENTHONY FERNANDES @ ANTHONY @ SHANU AND 13 ORS.,	... Respondents

Mr. Nigel Da Costa Frias, Advocate for the petitioner.
Mr. V. Braganza, Advocate for the respondent nos. 5 to 8.
Mr. P. Prabhu, Advocate for the respondent no.9.
Ms. Priyanka Kamat, Additional Government Advocate for the
respondent nos.10 to 14.

Coram:- K. L. WADANE, J.

Date:- 24th November, 2015

P.C.

Heard Mr. Nigel Da Costa Frias, learned Advocate appearing for the petitioner, Mr. V. Braganza, learned Advocate appearing for the respondent nos. 5 to 8, Mr. P. Prabhu, learned Advocate appearing for the respondent no.9 and Ms. Priyanka Kamat, learned Additional Government Advocate appearing for the respondent nos.10 to 14.

2. Heard forthwith with the consent of learned Counsel appearing for the respective parties.

3. Mr. Nigel Da Costa Frias, learned Counsel appearing for the petitioner states that an application at Exh.72 was submitted by petitioner under the provisions of Order 1 Rule 8 of C.P.C. with following prayers:-

"a. That leave be granted to the plaintiff to sue the defendants no.1 to 4 as the representatives of the villagers of Sao Jose de Areal

having interest in the subject matter of the suit i.e the Open Spacves situated in the complex known as "Sonum Township, Nesai, Sao Jose De Areal, Salcete Goa.

b. That the requisite notice under Order 1 Rule 8 of Civil Procedure Code be issued for publication by the plaintiff.

c. That leave be granted to the plaintiff produce on record additional documents ie. The said affidavit in reply dated 27.9.2013 filed by the village Panchayat of Sao Jose de Areal before the Hon'ble High Court of Bombay at Panaji-Goa and the order of the Hon'ble Court dated 27.9.2013 in writ petition no.496/13 alongwith a copy of the petition as the said documents are necessary to decide this application and also to decide the real controversy in issue in the suit.(Copies of the said documents annexed hereto)"

4. Learned Ad-hoc District Judge-1, FTC-I has only dealt with the prayer clause(a) and arrived at conclusion that the respondent nos.1 to 4/defendant nos. 1 to 4 cannot be sued as the representatives of the villagers.

5. On perusal of the reasons recorded by the District Judge, there is no whisper as to the prayer clause(c) by which the petitioner seeks to produce additional documents i.e affidavit in reply dated 27.9.2013 filed by the village Panchayat.

6. Considering the prayers of the petitioner in paragraph 11(c) it was for the learned District to give his findings as to whether petitioner can be allowed to produce additional documents or not and for that

limited purpose the learned District Judge is directed to decide prayer clause (c) on its own merits, as expeditiously as possible.

7. In view of the above directions, present petition stands disposed of.

K. L. WADANE, J.

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