

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 168 OF 2016

IN

WRIT PETITION NO. 460 OF 2014

MR. PETER FERNANDES.

... Applicant

Versus

MR. ANTONIO LOBO AND 5 ORS.,

... Respondents

Mr. G. Shirodkar, Advocate for the applicant.

Mr. Ryan Da Piedade Menezes, Advocate for the respondent nos.1 and 2.

Coram:- S. B. SHUKRE, J.

Date:- 16th February, 2016

P.C.

Heard the learned Counsel for the applicant and the learned Counsel for the respondent nos.1 and 2. None for the respondent nos.3 to 6.

2. This is an application for amendment. This application is opposed by learned Counsel for the respondent nos.1 and 2 on the ground that once execution of the decree has been ordered, the addition of the grounds of challenge would be of no consequence and, therefore, this application deserves to be rejected. He submitted that the applicant would be required to file an independent challenge.

3. On perusal of the proposed amendments what is seen is that the applicant is only attempting to take new additional grounds after passing of the order dated 28/01/2016 by which instead of keeping execution proceedings in abeyance, the execution has been directed to be carried out by the Court of Senior Civil Judge, Mapusa and this order is connected with the order dated 16/05/2014 which refuses to keep the execution proceedings in abeyance. It is the contention of the applicant that the execution proceedings cannot be allowed to be proceeded any further in view of the fact that there is an order of temporary injunction passed by the Special Court under the Mundkarial Act which is in operation and, therefore, in no case, the decree can be executed till the mundkarial proceedings are disposed of in accordance with law.

4. This ground is common to the challenge made to the order dated 16/05/2014 and being made to the order dated 28/01/2016. This is how, I find an intimate connection between the two orders dated 16/05/2014 and 28/01/2016. In fact, the later order can be seen only as a consequential order of the order dated 16/05/2014 and, therefore, this application deserves to be allowed. If this is not done, there could be complications in as much as multiplicity of proceedings. It is well settled that one of the purposes of the amendment of pleadings is to avoid multiplicity of proceedings and I am of the view that by allowing this application, such purpose of amendment of pleadings is being served.

5. In the result, the application is allowed. The proposed amendments be carried out in two weeks from the date of the order.
6. The application stands disposed of.

S. B. SHUKRE, J.

SMA