

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 316 OF 2014

MR. DOMNIC M. F. M D'SOUZA THR.
P.O.A. HOLDER MR. REALINO
J.C.D'SOUZA @ JOHN C.R.D'SOUZA
AND 8 ORS

... Petitioners

Versus

SHRI. ANAND MAHADEV REDKAR (
DELETED) AND 5 ORS.,

... Respondents

Mr. Galileo Francisco Teles, Advocate for the Petitioners.
Mr. J. J. Mulgaonkar, Advocate for the Respondent nos. 5a, 5c to
5e and 6.

Coram:- F. M. REIS, J.

Date:- 7th December, 2016

ORAL ORDER

Heard Mr. G. Teles, learned Counsel appearing for the
Petitioners and Mr. Mulgaonkar, learned Counsel appearing for
the Respondent nos. 5(a),5(c) to 5(e) and 6.

2. The challenge in the above Petition is to Orders dated
10.11.2011 and 10.10.2013 whereby the learned Executing Court
has adjourned the Execution Proceedings filed by the Petitioners
until the Respondents obtain an adjudication on their claim that
they are Mundkars of the subject premises.

3. Mr. G. Teles, learned Counsel appearing for the Petitioners,
submits that though initially the Executing Court has passed an

Order to obtain a declaration if any from the competent authority in the year 2011, nevertheless, the Respondents failed to obtain such declaration but have been delaying the matter for illegal motives. Learned Counsel further pointed out that the Decree in Execution is dated 29.04.2000 and on account of dilatory tactics on the part of the Respondents, the Execution has not reached the logical conclusion. Learned Counsel as such pointed out that the impugned Orders be quashed and set aside and the learned Executing Court be directed to proceed with the Execution Proceedings.

4. On the other hand, Shri J. J. Mulgaonkar, learned Counsel, submits that the only claim of the Respondents is that they are Mundkars of the subject house. Learned Counsel attributes the delay to the Petitioners as, according to him, the Petitioners have been raising preliminary objections which had delayed the disposal of the proceedings before the learned Mamlatdar. Learned Counsel as such pointed out that as the Respondents have raised a plea of Mundkarship which has to be adjudicated by the authority having exclusive jurisdiction, the Execution Proceedings has to be stayed.

5. I have carefully considered the submissions of the learned Counsel and I have also gone through the records. The Order impugned is dated 10.11.2011. The subsequent Order is the

dismissal of the application to recall such earlier Order. The delay in filing the above Petition has not been satisfactorily explained and, as such, the Petition deserves to be rejected on the ground of laches alone. But, however, in the peculiar facts and circumstances of the case as the Decree under execution is of the year 2000, in the interest of justice, I find it appropriate to direct the concerned Mamlatdar to dispose of Case no. JM-III/MND/DECL/U/S(A)/Verla/6/12 and Case no. MND/SR/8A/15/2012/IV pending before the learned Mamlatdar at Bardez, as expeditiously as possible, in any event, within six months from the date of receipt of this Order.

6. Petition stands disposed of accordingly.

F. M. REIS, J.

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