

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 614 OF 2016

Shri M.C. Afonso, Major, Married,
Indian National, Resident of 198, Opp.
Children's Park, Kevnem, Taleigao,
Goa.

... Petitioner

Versus

1. Mrs. Felicidade Pereira, major,
widow,
2. Mr. Caesar Pereira, major,
landlord,
3. Mrs. Fatima Braganza, major,
married,
4. Mrs. Augusta Gonsalves, major,
married,
All having address at House No.
386, Behind Rosary Chapel,
P.O., Dona Paula, Caranzalem,
Goa.

... Respondents

Mr. Ajit R. Kantak with Ms. Rajas A. Kantak,
Advocates for the Petitioner.

Mr. Devidas Pangam with Mr. Luis Fernandes,
Advocates for the Respondents.

CORAM:- C.V. BHADANG, J.

DATE:- 20th OCTOBER, 2016.

ORAL JUDGMENT:

Rule made returnable forthwith. The learned Counsel for the respondents, waives service. Heard finally by consent of parties.

2. The dispute is about demarcation of boundary of land bearing Chalta No. 110 and 110-A of P.T. Sheet No. 174 of City Survey of Panaji, having an area admeasuring 565 square metres. There were two rounds of demarcation carried out in this case. The first round concluded on 21.01.2010. However, on account of certain objections raised, the learned Deputy Collector by an order dated 04.05.2011, directed the DSLR to re-demarcate the property, on the basis of survey plan and submit report. DSLR submitted the demarcation report on 31.05.2011 to which, certain objections were raised on behalf of the respondents. The Deputy Collector, after considering both the survey reports by an order dated 12.08.2011, rejected the objections raised by

the respondents and confirmed the report of the DSLR. This was challenged by the respondents before the learned Administrative Tribunal. The Administrative Tribunal by judgment and order dated 26.09.2014, has allowed the appeal and remanded the matter back to the Deputy Collector. The petitioner filed Miscellaneous Application No. 5/2014 for review, which was rejected by the Administrative Tribunal on 14.09.2015, which brings the petitioner to this Court.

3. It is contended on behalf of the petitioner that the Administrative Tribunal has entirely proceeded on the basis of the earlier demarcation and has not adverted to the demarcation report dated 31.05.2011. It is submitted that the learned Deputy Collector after considering both the survey reports had rightly upheld the demarcation report dated 31.05.2011 and there was no case made out for remand.

4. The learned Counsel for the respondents submitted that the Administrative Tribunal has rightly considered the case set up on behalf of the respondents, on the basis of the existence of a compound wall and the discrepancy in the two reports and thought it fit to remand the matter, which order does not require interference. It is submitted that the ground of non consideration of the report dated 31.05.2011, was not raised in the review petition.

5. On hearing the learned Counsel for the parties, I find that the petitioner is right in claiming that the Administrative Tribunal has not considered the report dated 31.05.2011. The impugned order entirely proceeds on the earlier report of demarcation. The Deputy Collector after considering both the reports had upheld the subsequent report dated 31.05.2011. As there is non consideration of the report dated 31.05.2011, I find it appropriate that the Administrative Tribunal

reconsiders the matter and then decides it afresh, after hearing the parties, in accordance with law.

6. In such circumstances, the following order is passed:

O R D E R

(a) The petition is partly allowed.

(b) The impugned orders dated 26.09.2014 and 14.09.2015, are hereby set aside.

(c) The Land Revenue Appeal No. 63/2011, is restored back to the file of the Administrative Tribunal for deciding it afresh, in accordance with law.

(d) The Administrative Tribunal shall decide the appeal as expeditiously as possible and preferably, within a period of six months from today.

(e) Rival contentions of the parties are left open.

(f) The parties to appear before the Administrative Tribunal on 15.11.2016 at 10:30 a.m.

(g) Rule is partly made absolute, in the aforesaid terms, with no order as to costs.

C. V. BHADANG, J.

EV