

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 660 OF 2016

MR. RANDOLFO TOLENTINO XAVIER C.
VIEGAS.

... Petitioner

Versus

MR. DOMAIANO ESTROCIO AND ANR.

... Respondents

Mr. Pundalik N. Raiker, Advocate for the petitioner.
Mr. Amol G. Naik, Advocate for the respondent no.1.
Mr. G. Panandiker, Advocate for the respondent no.2.

Coram:- F. M. REIS, J.

Date:- 25th November, 2016

ORAL ORDER :

Heard Mr. Pundalik N. Raiker, learned counsel appearing for the petitioner, Mr. Amol G. Naik, learned counsel appearing for the respondent no.1 and Mr. G. Panandiker, learned counsel appearing for the respondent no.2.

2. The challenge in the above petition is to the order passed by the learned Tribunal dated 30.09.2015 whereby the Mundkar Revision Application filed by the petitioner came to be rejected.

3. The learned counsel appearing for the petitioner has raised two contentions, one is that the respondents who are claiming to be mundkars have not shown the nexus between the deceased mundkar and the respondents herein. It is further pointed out that only all the

co-heirs of the original Bhatkar have not been made parties to such purchase proceedings. It is further pointed out that in such circumstances, the learned Tribunal was not justified to pass the impugned order and direct the purchase application filed by the respondents to be implemented. The learned counsel has also relied upon the judgment of this Court dated 07.11.1996 passed in W.P. No.506 of 1993 in the case of Mrs. Beatriz Patrocinia Leandrina Dias V/s State of Goa and others.

4. On the other hand, Mr. A. Naik, the learned counsel appearing for the respondent no.1 has pointed out that all the co-heirs of the original bhatkar have been duly impleaded in the proceedings before the learned Mamlatdar as can be seen from the cause title of the judgment passed by the learned Mamlatdar. The learned counsel further pointed out that the respondent nos. 1 and 2 are the co-heirs of the deceased Bhatkar and that other persons which the petitioner claimed should be made parties as co-mundkars are married daughters who need not be made parties. The learned counsel as such points out that the petition be accordingly rejected.

5. I have considered the submissions of the learned counsel and I have also gone through the records. The contentions sought to be raised by the petitioner are totally misconceived. On plain reading of the cause title of the judgment passed by the learned Mamlatdar dated 28.01.2010, it clearly shows that all co-heirs of the deceased as

pointed out by the petitioner himself have been made parties therein. As such, the contention of the learned counsel appearing for the petitioner to now contend that some more parties have not been served is totally absurd and deserves to be rejected. The learned Tribunal has also noted that in case there are more co-mundkars, they may raise their own grievances independently.

6. During the course of the hearing, a Sanad issued by the Mamlatdar also was brought to my notice which clearly shows that the names of all the co-heirs are included therein and as such, there is no jurisdictional error committed by the learned Tribunal while passing the impugned order. There is no merit in the above petition which stands accordingly rejected.

F. M. REIS, J.

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