

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION No. 554 OF 2010**

(1) State of Goa
(Through the Chief Secretary,
Porvorim, Bardez, Goa.

(2) The Mamlatdar of Sanguem,
Sanguem, Goa.

... Petitioners.

Versus

Shri Gonji R. Naik (since deceased)
through legal representatives:

- (a) Rukmini alias Caxi Gonji Naik,
widow,
- (b) Vishal G. Naik,
son,
- (c) Sanjay G. Naik,
son,
resident of Pulnem, Mugoli,
Sanguem, Goa.
- (d) Kanchan Ramnath Kare,
daughter, resident of
Vadlemol, Kakoda, Curchorem, Goa.
- (e) Pramila Suhas Naik,
daughter, resident of
Daktibhat, Dongri, Goa.

... Respondents.

Mr. Arun Talaulikar, Additional Government Advocate for the Petitioners.

CORAM :- F.M. REIS, J.

DATE:- 29th NOVEMBER, 2016

ORAL JUDGMENT:

Heard Mr. Arun Talaulikar, learned Additional Government Counsel appearing for the Petitioners. None for the Respondent, though served.

2. The challenge in the above petition is to the Judgment passed by the Administrative Tribunal whereby the entries in the Record of Rights were directed to be corrected in the proceedings initiated under Section 14(3) of the Land Revenue Code.

3. Mr. A. Talaulikar, learned Additional Government Advocate appearing for the Petitioner has pointed out that the impugned order was passed by the learned Tribunal in excess of its jurisdiction which is not justified. It is further submitted that as the Tribunal itself had no jurisdiction to entertain the appeal, the impugned order cannot be sustained and deserves to be quashed and set aside. It is further submitted that the Respondent has not produced the original Alvara and as such the Tribunal was not justified to direct the correction of such records. It is further submitted that against the order of the Dy. Collector, in case the Respondents were aggrieved, it was incumbent upon them to file a appeal in terms of section 14(4) of the Land Revenue Code.

4. I have considered the submissions and I have gone through the records.

5. Learned Additional Government Advocate fairly accepts that the order passed by the Dy. Collector was appealable under Section 188 of the Land Revenue Code. In such circumstances, on perusal of section 188 of the Land Revenue Code, it cannot be disputed that the order passed by the Dy. Collector is appealable before the learned Tribunal. In such circumstances, the contention of the learned Additional Government Advocate that the order itself was not appealable cannot be accepted. In fact, an aggrieved party by the order passed in the appeal has an alternate remedy in terms of section 14(4) of the Land Revenue Code. Whilst passing the impugned order, learned Tribunal has taken note of the fact that the Respondent had paid occupancy fees to the State Government vide three installments. The learned

Tribunal also came to the conclusion that the Respondents were in possession of the subject property.

6. In such circumstances, the question of interfering with the impugned order of the learned Tribunal would not at all be justified. Hence, it would not be appropriate for this Court to interfere in the impugned order under Article 227 of the Constitution of India as the Petitioners also have an alternate remedy. The petition stands, accordingly, rejected.

F. M. REIS, J.

msr.