

IN THE HIGH COURT OF BOMBAY AT GOA**SECOND APPEAL NO. 85 OF 2016**

1. Shri Trevor Pinto,
Sarpanch of the Village Panchayat,
of Cana Benaulim, major in age,
self employed, residing near
Holy Trinity Church, H.No.1278,
Magilvaddo, Benaulim,
Salcete Goa.
 2. Shri Domnic Fernandes,
son of Jose Menino Fernandes,
Member of the Village Panchayat
of Cana Benaulim, major in age,
Carpenter, residing at H.No.786,
Divler, Assolna, Benaulim,
Salcete Goa.
- ... Appellants

V e r s u s

1. Shri Caetano Mathias Godinho @
Kaitan Mathias Godinho,
son of Mathias Godinho,
major in age,
married, ex Range Forest Officer,
and his wife
r/o H. No.806,
Acsona, Duler, Benaulim,
Salcete Goa.
2. Smt. Clotilda Caetano Godinho,
major in age, service,
r/o H.No.806,
Acsona Duler, Benaulim,
Salcete Goa.
3. Smt. Piedade Mathias Godinho,
widow of Mathias Godinho,

(since deceased)

Through her legal heirs

3a) Mr. Thomas M. Godinho,
retired Educational Officer,
Major in age, resident of
Board, Karwar, Karnataka,

3b) Mr. John M. Godinho,
Businessman, major of age,
resident of Mumbai, Maharashtra

3c) Mr. Elias M. Godinho (deceased)
Businessman, major of age,
resident of Halga, Karwar, Karnataka

3c(a) Mrs. Franciquina
Elias Godinho,
w/o late Shri Elias M. Godinho,
aged 61 years,
r/o H. No.121, Halga,
Karwar, Karnataka State,
(Through duly constituted Attorney,
Respondent no.1 herein)

3d) Mrs. Martinha M. Godinho,
wife of Pascoal Rosario,
Housewife, major of age,
resident of Manipal,
Udipi, Karnataka.

3e) Mrs. Bibiana M. Godinho,
wife of Daniel Mendonca,
major of age,
residing near,
r/o H.No.44, Near Kadamba Bus Stand,
Margao Goa.

4. Village Panchayat of Benaullim,
through its Secretary,
Benaullim, Salcete Goa.

.... Respondents

Mr. Carlos Alvares Ferreira, Advocate for the appellants.

Mr. S. Redkar, Advocate for the respondents.

Coram:- F. M. REIS, J.

Date:- 4th August, 2016

ORAL JUDGMENT

Heard Mr. C. A. Ferreira, learned counsel appearing for the appellants and Mr. S. Redkar, learned counsel appearing for the respondents.

2. Admit on the following substantial question of law :

Whether the Appellate Court was justified to award compensation of a sum of Rs.36,300/- along with interest accrued thereon on the ground that the amount was recoverable from the respondents though they claimed to perform their statutory functions as Sarpanch and Member of the Village Panchayat ?

3. Heard forthwith with the consent of the learned counsel.

4. Mr. S. Redkar, learned counsel waives service on behalf of the respondents.

5. During the course of the hearing of the above appeal, both the learned counsel point out that in the meanwhile the parties have amicably settled their dispute and executed consent terms. It is further pointed out that in terms thereof the amount which has been deposited by the appellants has been agreed to be shared between the appellants and the respondents in terms of the consent terms. The consent terms have been signed by the appellants as well as the respondent no.1 also as a duly constituted attorney of the respondent nos.2, 3, 3a, 3b and 3d along with their respective Advocates. The learned counsel appearing for the appellants and the respondents have identified the signatures of the respective parties. The consent terms are taken on record and marked 'X' for identification. The learned counsel as such point out that the above appeal be disposed of in terms of the consent terms.

6. Mr. S. Redkar, learned counsel appearing for the respondents upon instructions states that in view of the consent terms, the respondents shall withdraw the Execution Application No. 49/2012 filed before the Civil Judge Junior Division at Margao.

7. Hence, I pass the following :

ORDER

- (i) The appeal is partly allowed.
- (ii) The impugned judgments passed by the learned Lower Appellate Court dated 18.05.2011 as well as by the learned Trial Judge dated 30.04.2005 are quashed and set aside.
- (iii) The suit filed by the respondents stands decreed in terms of the consent terms marked 'X' for identification.
- (iv) The appeal stands disposed of accordingly with no order as to costs.
- (v) Decree to be drawn accordingly.

F. M. REIS, J.

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