

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 773 OF 2016

SHRI. JOAQUIM OLIVEIRA THR.
CONSTITUTED ATTORNEY PET NO. 3 AND
2 ORS.

... Petitioners

Versus

SHRI. ATUL RAMCHANDRA GAUNS DESAI
AND 4 ORS.

... Respondents

Mr. J. Abreu Lobo, Advocate for the petitioners.

Coram:- C. V. BHADANG, J.

Date:- 19th September, 2016

P.C.

Heard Shri Lobo, the learned Counsel for the petitioners.

2. At the outset, it is necessary to mention that the impugned order passed by the learned Administrative Tribunal is dated 15/01/2014 and the present petition is filed on 01/08/2016. The delay is tried to be explained on the omnibus ground that the petitioners are rustic villagers. In my considered view, the petition cannot be entertained on the ground of delay and laches alone. Nonetheless, I would propose to advert to the challenge on merits as well.

3. The issue whether the petitioners are tenants of the suit property was referred to the Mamlatdar. The Mamlatdar rejected the application, which was challenged by the petitioners before the Deputy Collector. The Deputy Collector allowed the appeal and granted a declaration of tenancy in favour of the petitioners. This was, in turn, challenged by the respondents in a Revision before the

Administrative Tribunal. The Administrative Tribunal, by the impugned judgment and order, has allowed the Revision Application, restoring the order passed by the Mamlatdar.

4. It is contended by Shri Lobo, the learned Counsel for the petitioners that the tenancy was created much prior to 1975, when there was no necessity of payment of rent by a deemed tenant and thus, the Mamlatdar could not have relied upon the absence of Lease Deed or rent receipts. It is submitted that the learned Deputy Collector, after correctly appreciating the factual and legal position, had set aside the order of the Mamlatdar. It is next contended that the order passed by the Administrative Tribunal does not consider the oral evidence led. It is submitted that the application for injunction, filed by the respondents, was dismissed by the Civil Court, which order was not challenged.

5. I have considered the circumstances and the submissions made. With the assistance of the learned Counsel for the petitioners, I have perused the impugned order passed by the learned Administrative Tribunal and also by the learned Mamlatdar and the Deputy Collector.

6. At outset, it is necessary to mention that the Administrative Tribunal has accepted the submission on behalf of the petitioners regarding the non-availability of the rent receipts. The Administrative Tribunal has observed in para 11 of the judgment that "the only infirmity that I find is the finding of the Trial Court, which is regarding non-availability of the receipts." It can, thus, be seen

that the said contention has already been accepted. Nonetheless, the Administrative Tribunal has considered the fact that Form No.I and XIV in the Tenant's column only refers to a house. Secondly, it has been found that there was acquisition of a portion of suit field, where the compensation was entirely paid to the respondents. Thirdly, the Administrative Tribunal has found, on the basis of the complaint lodged by the petitioners, that the only grievance was about the respondents taking away thatched roof of the house and there was no grievance about the plucking of the coconuts in the suit property. In that view of the matter, the Administrative Tribunal has found that though the petitioners had claimed some rights in the house, had not claimed any right over the coconuts. It can, thus, be seen that the Administrative Tribunal has, after considering the material and the rival contentions raised, allowed the Revision Application. The impugned order does not suffer from any jurisdictional error or infirmity. Thus, no case for interference is made out, both on account of delay and laches and on the merits of the matter. The Writ Petition is, accordingly, dismissed.

C. V. BHADANG, J.

SMA