

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 792 OF 2016

Shri Khurram Hussain,
Son of Magdoom Khazi,
30 years of age, service,
r/o H.No. 43, Sirvodem,
Margao,
Salcete Goa.

... Petitioner

Versus

1. Shri Govind M. Raut Dessai,
son of Raut Dessai,
major of age,
r/o H.No.90/2,
Adamorod, Assolda Goa.
2. The Administrator of Comunidades,
South Zone,
Margao Goa,
3. Shri Anil Kumar Raut Dessai,
Ex Attorney of Assolda Comunidade,
r/o Assolda,
Quepem Goa.
4. The Administrative Tribunal,
Through its President,
Having office at 3rd Floor,
Vaidya Hospital Bldg.,
Panaji Goa.

... Respondents

Mr. Carlos Alvares Ferreira, Advocate for the petitioner.

Mr. Nigel Da Costa Frias, Advocate for the respondent no.1.

Mr. A. G. Jamadar, Addl. Government Advocate for the respondent no.2.

Coram:- F. M. REIS, J.

Date:- 18th November, 2016

ORAL JUDGMENT:

Heard Mr. C. A. Ferreira, learned counsel appearing for the petitioner and Mr. Nigel Da Costa Frias, learned counsel appearing for the respondent no.1.

2. Rule. Heard forthwith with the consent of the learned counsel.

3. The learned counsel appearing for the respective respondents waive service.

4. Upon hearing the learned counsel appearing for the respective parties, apart from the other contentions raised by the petitioner, the main grievance of the petitioner is that by the impugned order dated 23.10.2015, the learned Tribunal remanded the

matter for reconsideration to the respondent no.2 on the assumption that the petitioner has also consented to such remand order. Mr. Ferreira, learned counsel appearing for the petitioner however points out that the records itself reveal that the petitioner was absent when such order was passed and as such the question of giving any consent to such order would not arise.

5. Mr. Nigel Da Costa Frias, learned counsel appearing for the respondent no.1 fairly accepts the position that the petitioner was not present on such date and as such there was no consent obtained from the petitioner for such order of remand.

6. In such circumstances, without going into the merits of the other contentions raised by both the parties, I find it appropriate in the interest of justice to quash and set aside the impugned order dated 23.10.2015 and all other consequential orders therefrom and remand the matter to the learned Tribunal to decide the Comunidade Appeal No.4/2014 afresh along with any other pending interim applications after hearing the parties in accordance with law.

7. In view of the above, I pass the following :

ORDER

(i) The impugned order dated 23.10.2015 and the consequential orders therefrom are quashed and set aside.

(ii) The learned Tribunal is directed to decide the Comunidade Appeal No.4/2014 as well as the other pending interim applications after hearing the parties in accordance with law.

(iii) All contentions of both the parties on merits are left open.

(iv) Rule is made absolute in the above terms.

(v) The petition stands disposed of accordingly.

F. M. REIS, J.

at*