

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 724 OF 2015

**SHRI VALLABH SEGUNA NAIK KURADE
AND 5 ORS.,**

... Petitioners

Versus

**STATE OF GOA, THROUGH ITS CHIEF
SECRETARY AND 2 ORS.,**

... Respondents

Mr. Prasheen Lotlikar, Advocate for the Petitioners.

Mr. V. Sardesai, Addl. Government Advocate for the Respondent
no.1 & 3.

Coram:- C. V. BHADANG, J.

Date:- 23rd June, 2016

Oral Order:

By this petition, the petitioner is challenging the order dated 11/2/2015 passed by the Forest Settlement Officer, Goa, by which the prayer made by the petitioner to keep the proceedings in Case No.PRF/KUR/3(G) 05 in abeyance, pending decision in proceedings being No.LRC/14(3)5/2005/AC-1 filed by the petitioner under section 14(3) of the Land Revenue Code 1968 before the Additional Collector, South Goa, Margao, has been turned down.

2. The brief facts are that the Forest Settlement Officer had issued a notice to the petitioner on 8/6/2009 purportedly under section 4 r/w section 6 of the Indian Forest Act, 1927 for declaration of lands falling

under survey numbers as specified therein, as a reserved forest. The petitioner filed a reply to the same on 17/8/2009 inter alia contending that the land survey no.105/2, 114/3 and 114/5 of village Colomba be excluded from the reserved forest and in respect of land survey nos 105/1, 113/3, 113/4, 113/5, 113/7, 114/7, 114/8, 114/9 and 120/1, it was contended that they consist of fruit bearing and non fruit bearing trees and should be excluded from the Reserved forest area. The petitioner alternately prayed that they should be paid compensation in respect of the said lands. Pending inquiry before the Forest Settlement Officer, the petitioner filed an application on 21/3/2011 to keep the proceedings in abeyance, as according to the petitioner a title case filed by him under section 14(3) of the Code was pending before the Collector. He stated that this is necessary to avoid conflicting decisions.

3. The Forest Settlement Officer found that "his office was not connected with giving title of land surveyed". He further observed that it is supposed to be established whether "the claimant is having clear title to a particular land and to proceed further accordingly". In that view of the matter, the Forest Settlement Officer found that there was no reason to keep the matter in abeyance.

4. The learned counsel for the petitioner submits that the inquiry under section 14 (3) of the Code is a comprehensive inquiry touching the question of title of the petitioner. He submits that the said proceedings were initiated by the father of the petitioner some time in the year 1982 and are still pending. He submits that the petitioner has already filed his written submissions before the Collector and has thus

done all what was within his powers for getting said the proceedings decided at an early stage. He, therefore, submits that it is appropriate that the Forest Settlement Officer stays his hands till the matter is decided by the Collector.

5. The learned Addl. Government Advocate appearing for the respondent submits that the petitioner has already produced Form No.I and XIV in respect of 3 survey nos. and the record showing his title in respect of the rest of the survey numbers also, which shall be examined by the Forest Settlement Officer. He submits that the scope of the proceedings before the Forest Settlement Officer is distinct than the scope of the proceedings before the Collector. Therefore, the impugned order refusing to keep the proceedings in abeyance does not call for interference.

6. I have carefully considered the rival circumstances and the submissions made. It is evident that the inquiry conducted by the Forest Settlement Officer is under the provisions of the Indian Forest Act. According to the petitioner, the petitioner has already produced the copies of Form I and XIV and certain documents comprising of old Portuguese record to substantiate his claim of title. If that be so, the Forest Settlement Officer is bound to examine the same within the scope and ambit of the powers available to him under the relevant provisions. It is evident that the proceedings filed by the petitioner under section 14(3) the Code are pending since the year 1982 and the Forest Settlement Officer cannot be asked to stay his hands indefinitely. In such circumstances, I do not find that any case for interference is made

out. It is needles to mention that the Forest Settlement Officer shall independently examine the matter without being influenced by the observations in the impugned order. Subject to the statement made on behalf of the respondent that the Forest Settlement Officer shall examine the contentions raised on behalf of the petitioner and the documents produced on their own merits, the writ petition is dismissed with no order as to costs.

C. V. BHADANG, J.

ap/-