

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 31 OF 2016

MRS.BASTINA FERNANDES.

... Petitioner

Versus

SMT.VICTORIA J. MENDONSA AND 3
ORS.,

... Respondents

Ms. Clera W. Patil, Advocate for the Petitioner.

Coram:- C. V. BHADANG, J.

Date:- 11th April, 2016

P.C:

Heard the learned Counsel for the petitioner.

2. By this petition, the petitioner is challenging the order dated 25.11.1986 passed by the Joint Mamlatdar, Bardez, Mapusa, Goa. By the impugned order, the respondent no. 1-Victoria Mendonsa has been declared to be the tenant of the suit paddy field, surveyed under P.T. Sheet No. 175, Survey No. 70/4 and P.T. Sheet No. 175, Survey No. 70/2 in Case No. TNC/Mapusa/72/84.

3. The brief facts are that the field belongs to Comunidade of Mapusa, in which now deceased-Victoria Mendonsa was a tenant. Victoria Mendonsa had two sons, namely Sebastio Inacio Mendonsa and Domingos Jose Mendonsa. The petitioner happens to be the daughter of Domingos Jose Mendonsa. A perusal of the impugned order shows that Sebastio Inacio Mendonsa and Domingos Jose

Mendonsa were respondent nos. 2 and 3, who had entered appearance before the learned Mamlatdar.

4. It is submitted on behalf of the petitioner that a notice dated 30.10.2015 was received from the respondent no. 1, whereupon she came to know of the passing of the order, upon which she obtained the copy of the impugned order and of the relevant proceedings. The learned Counsel for the petitioner places reliance on the copy of the statement recorded as also the order sheet in the proceedings to submit that there was some manipulation and the order was obtained out of collusion without informing the learned Mamlatdar that there are other legal heirs. It is also contended that the names of some of the legal heirs were not disclosed.

5. I have considered the circumstances and the the submissions made. It can be seen that the petitioner is seeking to challenge an order passed as far back as in the year 1986. It is not possible to accept at this distance of time that the petitioner was unaware of the impugned order passed. I find that there is gross delay and laches. It is trite that the disputed questions of fact cannot be gone into, in a petition of the present nature, more so, after lapse of 32 years of the passing of the impugned order. In such circumstances, I decline to entertain the petition. The petition is accordingly dismissed.

At this stage, the learned Counsel for the petitioner states that the petitioner would avail alternate remedy as may be available in law. It

is made clear that this Court has not expressed any opinion on the availability of any such remedy and on the merits of the same, if availed of.

C. V. BHADANG, J.

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