

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 197 OF 2016

SHRI. SINGARAJ LEO SINGH.

... Petitioner

Versus

FR.ALFREDO ALEMEIDA (SINCE
DECEASED) THROUGH HIS LRS.,

... Respondent

Shri Ravi M. Gawas, Advocate for the Petitioner.
Shri C. Fonseca, Advocate for the Respondents.

Coram:- C. V. BHADANG, J.

Date:- 6th June, 2016

ORAL ORDER:

Heard learned Counsel for the parties.

2. The petitioner is the original defendant in Special Civil Suit No.46/2011/A pending on the file of the learned Senior Civil Judge at Panaji. The original plaintiff Fr. Alfredo Almeida, who was said to be a catholic priest died on 6/06/2014. The present respondents filed an application (Exhibit 31) before the learned Trial Court, for being substituted as plaintiffs, in the place of Fr. Alfredo Almeida. This application was filed on the strength of a registered Will dated 10/06/2011 by which Fr. Alfredo Almeida had bequeathed suit property in favour of these respondents. It was contended that the original plaintiff Fr. Alfredo Alemida had not left any ascendants or descendants and, as such, the respondents are the sole heirs/legatees of the original deceased plaintiff. The learned Trial Court by

impugned order dated 17/04/2015 has allowed the application which is subject matter of challenge in this petition.

3. The only contention raised on behalf of the petitioner is that the Trial Court did not conduct any inquiry as contemplated under Order 25 Rule 5 of Civil Procedure Code. He, therefore, submits that the impugned order needs to be quashed and set aside.

4. On the contrary, it is submitted by the learned Counsel for the respondents that the Will on the strength of which the respondents are claiming to be heirs of the original deceased plaintiff is a registered Will. He also points out that the Trial Court has framed an issue as to the ownership/title of the suit property.

5. It is evident that the Trial Court shall decide the issues as framed in the suit on their own merits. At this stage, inasmuch as the Will is a registered Will and having regard to the decision of this Court in Second Appeal No.65/2002 dated 5/12/2002 (SHRI SHIRISH PANDURANG DIUKAR V/s. JAWAHAR H. CHAMPSI), no case for interference is made out. In the result, the Writ Petition is hereby dismissed.

C. V. BHADANG, J.

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