

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 303 OF 2017**

MR. RAJENDRA PURUSHOTTAM HALARNKAR
AND ANR.

... Petitioners

Versus

STATE OF GOA, THR. ITS CHIEF
SECRETARY AND 2 ORS.,

... Respondents

Mr. S. S. Kantak, Senior Advocate with Mr. A. Gosavi, Advocate
for the petitioners.

Mr. D. Lawande, Advocate General with Mr. P. Faldessai, Addl.
Government Advocate for the respondents.

Coram:- F. M. REIS &
NUTAN D. SARDESSAI, JJ.

Date:- 5th April, 2017

ORAL ORDER :

The grievance of the petitioners in the above petition was that the Sub Registrars in the State of Goa were not exercising powers as Special Notaries as there was no specific Notification to that effect in terms of the Goa Succession, Special Notaries and Inventory Proceeding Act, 2012.

2. During the course of the hearing of the above petition,

Mr. D. Lawande, learned Advocate General has placed on record an Office Memorandum issued by the State Government dated 14.03.2017 which is placed on record and marked 'X' for identification. But however, Section 365 of the said Act, reads thus :

“365. Ex-officio powers and acts to be done after office hours.-- (1) The District Registrars and Sub-Registrars appointed under the Registration Act, 1908 (16 of 1908), shall ex-officio exercise the powers and functions of District Special Notaries and Special Notaries under this Act.

(2) The State Registrar appointed in the Registration Department of the State Government shall be the ex-officio State Special Notary and shall have power of general superintendence and control over the Special Notaries and District Special Notaries, unless the State Government deems it necessary to appoint a State Special Notary exclusively for performing functions as stated as above.

(3) No Special Notary shall be bound to draw any instrument beyond the normal office hours or on Sundays or on holidays, unless there is an emergency. The Special Notary shall, where he is

required to work beyond the normal office hours, be paid by the person requiring such work, such over time fees as may be fixed by the Government, by notification. The Special Notary shall also be entitled to adequate police protection for his personal security and the security of the Notarial books.”

3. Taking note of sub section (1) of Section 365, it clearly provides that all Sub-Registrars of the State appointed in the State under the Registration Act, 1908 are appointed as Special Notaries to perform the functions thereof. The jurisdiction of the Sub-Registrar rest on the Office Memorandum produced on record.

4. As far as the grievance of the petitioner is concerned, Mr. S. S. Kantak, learned Senior Counsel appearing for the petitioners points out that the issue has been redressed and nothing survives in the petition.

5. The petition stands disposed of accordingly.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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