

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 64 OF 2015

MR. MACEDENIO ALCACOAS. ... Petitioner
Versus
THE STATE OF GOA, THROUGH ITS
CHIEF SECRETARY AND 5 ORS., ... Respondents

Mr. Abhijeet Kamat, Advocate for the petitioner.
Mr. Balkrishna P. Sardesai, Advocate for the respondent no.3.

Coram:- M. S. SONAK, J.

Date:- 18th April, 2017

P.C.

Mr. Kamat states that leave has already been granted to the petitioner to delete the reliefs in terms of prayer clauses (e) and (f). He submits that it is on this basis, that the matter, which was earlier before the Division Bench, has been made over to the Single Judge. He submits that due to oversight, formal amendment was not carried out to the prayer clauses. Accordingly, Mr. Kamat is permitted to carry out such amendment forthwith.

2. Mr. Sardesai, learned Counsel for the respondent no. 3 on the basis of instructions from the respondent no. 3 makes a statement that the respondent no. 3 will withdraw the proceedings initiated by the respondent no. 3 under Section 133 of Cr.P.C. without prejudice to the rights of the respondent no. 3 to pursue Regular Civil Suit No.16/2017/D instituted before the

Civil Judge Junior Division, Vasco-da-Gama. This statement is accepted and on basis of the same, case no. MAG-II/133/Cr.P.C./1/2015/17/22 pending before the Executive Magistrate Marmugao Taluka Vasco Da Gama is hereby disposed off. The parties to obtain formal orders from the Magistrate recording the disposal.

3. Upon disposal of the main proceedings before the respondent no. 2, needless to add that the impugned order dated 3.6.2016, which was an interim order would no longer survive.

4. The respondent no. 3, as noted earlier, has already instituted Regular Civil Suit No.16/2017/D, before the learned Civil Judge, Junior Division, Vasco-da-Gama seeking relief of access to the property bearing survey no.101/23of Cansaulim village. The respondent no. 3 has also applied for interim relief. The matter is now posted before the learned Civil Judge Junior Division, Vasco-da-Gama on 2.5.2017. Mr. Kamat, learned Counsel for the petitioner in this petition and for the defendants in the suit states that defendants will positively filed their reply on or before 2.5.2017. In case the respondent no. 3 desires to file any rejoinder she may do so within a period of week thereafter.

5. The learned Civil Judge Junior division at Vasco-da-Gama is directed to dispose of the application for temporary injunction/interim relief in the said suit on its own merits and in accordance with law latest by 30.6.2017.

6. Further, while disposing of the suit as well as motion for

temporary injunction/interim relief, the learned Civil Judge Junior division at Vasco-da-Gama need not be influenced by any of the observations made in the impugned order which is subject matter of this petition; as also, any of the orders made by this Court in this petition. It is made clear that this Court has not examined the merits of the dispute between the parties and all contentions of all parties are left open to be determined by the learned Civil Judge Junior division at Vasco-da-Gama.

7. This petition is disposed of in the aforesaid terms.

M. S. SONAK, J.