

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.704 of 2015**

1. Mr. Sebastiao Britto,
58 years of age,
son of late Xavier Britto,
resident of H. No.379/2,
Asvem, Madrem,
Pernem - Goa.
2. Mr. Salvador Xavier Britto,
major of age,
son of late Xavier Britto,
resident of H. No.379/2
Asvem, Madrem,
Pernem- Goa
- 2(a) Mrs. Maria M. Britto,
60 years of age,
widow of Mr. Salvador
Xavier Britto,
- 2(b) Mr. Johnny Britto
40 years of age,
s/o Mr. Salvador
Xavier Britto

Both r/o Uscassim, Punala,
Near Union Bank
Bardez Goa

.. Petitioners

Vs.

1. Shri Eultacao Kridade Britto
major of age,
resident of Asvem Mandrem,
Pernem-Goa
(since deceased)
- 1(a) Maria Anton Britto,
widow of late Edultasao Britto,
age 60 years, housewife
and her son
- 1(b) Karidade Edultasao Britto,
son of late Edultasao Britto,
aged 40 years, bachelor,
business, both resident of Ashvem,

Mandrem, Pernem- Goa

- 1(c) Mrs. Garada Bonavanture D'Souza,
daughter of late Edultasao Britto,
aged 37 years, housewife,
Married and her husband
- 1(d) Mr. Bonavanture D'Souza,
son of Duwart D'Souza,
aged 40 years, service, married,
both r/o Kumiya Morod,
Guirim
- 1(e) Mrs. Molly Peter De Souza,
daughter of late Edultasao Britto,
aged 33 years, housewife,
married and her husband
- 1(f) Mr. Peter Policarpo De Souza,
Son of late Policarpo, De Souza,
age 40 years, married, service,
Both resident of H. No.248,
Bhate Nerul, Bardez-Goa
- 2. Shri Salvador Domingo Britto,
major of age,
resident of Asvem Mandrem,
Pernem- Goa.
- 3. Shri Vitorin Britto,
(deceased through legal heirs)
- 3(a) Mr. Xavier Britto,
son of late Vitorin Britto,
major of age, resident of Bhatir,
Morjim, Pernem Goa.
- 3(b) Mrs. Xavier Britto,
daughter in law of late Vitorin
Britto, major of age,
resident of Bhatir,
Morjim, Pernem Goa
- 3(c) Mrs. Lilee Britto,
daughter of late Vitorin Britto,
major of age,
resident of Bhatir,
Morjim, Pernem Goa

- 3(d) Mr. Lilee Britto,
son in law of Vitorin Britto,
major of age,
resident of Bhatir,
Morjim, Pernem Goa
- 3(e) Mrs. Maurice V. Britto,
daughter of late Vitorin Britto,
major of age,
resident of Bhatir,
Morjim, Pernem Goa
- 3(f) Mr. Maurice Britto,
son in law of Vitorin Britto,
major of age,
resident of Bhatir,
Morjim, Pernem Goa
4. Smt. Adelin Britto,
major of age,
resident of Asvem Mandrem,
Pernem-Goa.
5. Mr. Francis Alex Britto,
major of age,
resident of Asvem Mandrem,
Pernem- Goa.
6. Mrs. Mary Paulin Britto,
major of age,
resident of Asvem Mandrem,
Pernem-Goa.
7. Francis Xavier Britto,
major of age,
resident of Asvem Mandrem,
Pernem-Goa.
8. Idalin Francis Britto,
major of age,
resident of Asvem Mandrem,
Pernem-Goa
- .. Respondents.

Mr. A. D. Bhobe and Ms. S. Bhobe, Advocates for the petitioners.

Mr. D. J. Pangam and Mr. S. P. Munj, Advocates for the respondent nos.1(a), 1(c) and 1(d).

CORAM :- C. V. BHADANG, J.

DATE:- 14th November, 2017

ORAL JUDGMENT :

On 14/09/2015, a notice for final disposal was issued in this case. I have accordingly heard Shri Bhobe, the learned Counsel for the petitioners and Shri Pangam, the learned Counsel for the respondent nos.1(a), 1(c) and 1(d). None appears for the rest of the respondents.

2. On hearing the learned Counsel for the parties, the petition is being disposed of finally.

3. The challenge in this petition is to the orders dated 03/03/2015 and 02/07/2015, by which, the learned Trial Court has dismissed the applications Exhs.D-57 and D-78, thereby refusing to await the decision of the tenancy issue. At the relevant time, when these applications were made, admittedly in view of amendment to the Goa Agricultural Tenancy Act, 1964 (the Act, for short), the tenancy issue was pending before the learned Civil Court. On account of subsequent amendment, which came into force on 31/08/2017, the jurisdiction has again been transferred to the learned Mamlatdar. Thus, now the tenancy issue would no longer be decided by the learned Civil Court.

4. In view of the subsequent development, I find it appropriate to grant liberty to the petitioners to file an appropriate application for stay of the suit, (awaiting the decision in the tenancy reference.) In that view of the matter, the impugned order is hereby set aside. It will be open to the petitioners to file an appropriate application, seeking stay of the suit, awaiting decision in tenancy reference. If such an application is filed, the learned Trial Court shall decide the same, after hearing the parties in accordance with law. The petition is disposed of in the aforesaid terms, with no order as to costs.

C. V. BHADANG, J.

SMA