

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 848 OF 2017

MAYA PRABHU DESSAI AND ANR., ... Petitioners

Versus

RATNEM NAGUESH NAIK., ... Respondent

Adv. Usgaonkar Sudesh Manohar for the Petitioners.
Adv. C. A. Coutinho with Adv. S. Redkar for the Respondent.

Coram:- C. V. BHADANG, J.

Date:- 21st November 2017

P.C.:

Heard the learned counsel for the petitioners and the learned counsel appearing for the respondent.

2. This petition can be disposed of on a short count. There was an application filed by the respondent under section 8-A of the Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975 for declaration. That application was filed against now deceased Mahadev Desai. It appears that the said application proceeded ex parte and the learned Mamlatdar granted the declaration on 31/7/2009. The petitioners instead of approaching the learned Mamlatdar challenged the said order before the learned Dy. Collector in proceedings which were styled as Revision application and which were registered as Case

No.MUN/REV/02/2011. During the pendency of the said Revision application the petitioners filed an application for conversion of the Revision application to an appeal. The learned counsel for the petitioners points out that the said application was not formally decided and was kept pending. The learned Dy.Collector by judgment and order dated 20/4/2017 dismissed the challenge refusing to interfere with the order of the learned Mamlatdar. It is this order which is subject matter of challenge in this petition.

3. The only contention raised on behalf of the petitioners is that the learned Dy. Collector could not have decided the matter without first formally converting the Revision application into an appeal.

4. The contention in my considered view cannot be accepted. This is for the reason that a bare perusal of the impugned order shows that the learned District Judge has treated the challenge as an appeal and not as a revision. The said appeal is decided on merits. Even the operative order passed by the learned Dy. Collector shows that the appeal filed by the petitioners was dismissed. In such circumstances, the mere absence of a formal order being passed on the application for conversion, nor the nomenclature of the registration of a revision would be decisive. Even otherwise, it is not disputed that only an appeal lies against

the order passed by the Mamlatdar before the Dy. Collector. In such circumstances, for all practical purposes the challenge raised by the petitioners before the Dy. Collector and which has now been decided has to be treated as an appeal. The petitioners have an alternate remedy of a revision against the impugned order before the learned Administrative Tribunal. In that view of the matter I decline to entertain the petition which is accordingly dismissed.

C. V. BHADANG, J.

ap/-