

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.204 OF 2016**

Dempo Properties & Investments Pvt. Ltd.,
A Company incorporated under
the Companies Act 1956,
having its Registered Office at Casa Dempo,
Opp. Bank of Maharashtra,
M.G. Road, Panaji, Goa,
Represented by its Director,
Shri Yogish V. Dempo,
S/o. Lt. Vishnu Vitola Sinai Dempo,
42 years of age, married, business,
Indian National, Resident of Alto Betim,
Bardez, Goa.

....Petitioner

V/s

1. Additional Director of Panchayats-II,
3rd Floor, Junta House, Panaji-Goa.
2. State of Goa,
Through its Chief Secretary,
Secretariat, Alto-Porvorim,
Bardez, Goa.
3. Mr. Felix Rebeiro,
major in age, Residing at House No.165/1,
Opposite Agassaim Police Station,
Dexibhat, Agassaim, Tiswadi-Goa.

....Respondents

Shri Sudin M.S. Usgaonkar, Senior Advocate with Ms. T. Ghanekar,
Advocate for the Petitioner.
Shri S.D. Lotlikar, Advocate General with Shri P. Dangui, Additional
Government Advocate for Respondents No.1 & 2.
Shri Ryan Menezes and Ms. C. Rebeiro, Advocates for Respondent
No.3.

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

Date:- 15th FEBRUARY, 2017

ORAL JUDGMENT : (Per F.M. REIS, J.)

Heard Shri Sudin M.S. Usgaonkar, learned Senior Counsel appearing for the petitioner, Shri S.D. Lotlikar, learned Advocate General appearing for the respondents no.1 & 2 and Shri R. Menezes, learned Counsel appearing for the respondent no.3.

2. Rule. Heard forthwith with the consent of the learned Counsel appearing for the respondents. Learned Counsel for the respondents waive service.

3. Upon hearing the learned Counsel appearing for the respective parties a short point for consideration which arises in the above petition is whether the respondent no.1 is justified to keep the proceedings filed before him in abeyance despite of directions issued by this Court merely because a Special Civil Suit No.6/2012/A is pending between the parties. By an order dated 1/10/2014 passed in Writ Petition No.590/2014, this Court issued specific directions to the respondent no.1 to dispose off the appeal as expeditiously as possible and preferably by 31/03/2015. When such specific directions were issued, it was expected of the respondent no.1 to decide the appeal after hearing the parties on its own merit and in accordance with law. The question of keeping such an appeal in

abeyance merely because the Special Civil Suit no.6/2012/A was pending is not at all justified and the impugned order is unsustainable in law.

4. But, however, both the learned Counsel have amicably arrived at an interim arrangement with regard to the subject structure as stated herein under:

(i) The respondent no.3 shall not occupy the subject structure until the final adjudication of the dispute in Special Civil Suit no.6/2012/A is finally disposed off by the learned Civil Judge Senior Division at Panaji.

(ii) The appeal preferred by the respondents before the respondent no.1 shall not be listed for hearing until disposal of the said Special Civil Suit no.6/2012/A.

(iii) The respondent no.3 shall remove the belongings, if any, within one week from today.

(iv) Rule is made absolute in the above terms.

(v) Liberty to apply.

NUTAN D. SARDESSAI, J.
NH/-

F. M. REIS, J.