

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 46 OF 2018

JULIO VALENTINO FERNANDES ALIAS
JULIO VALENTINO THOMAS FERNANDES., ... Petitioner

Versus

CHARMINE BRANDA D'SOUZA AND 3
ORS., ... Respondents

Adv. Prasheen Lotlikar for the Petitioner.
Adv. S. Bhobe for Respondent no.1.
Ms. N. Kholkar, Addl. Government Advocate for Respondent
nos. 2,3,4.

Coram:- C. V. BHADANG, J.

Date:- 22nd February 2018

P.C.:

The challenge in this petition is to the order dated 15/3/2017 passed by the Under Secretary (Revenue-II), Government of Goa whereby the Under Secretary has refused to admit an application for review filed by the petitioner on 1/3/2017.

2. The only contention raised on behalf of the petitioner is that the application for review could not have been dismissed without hearing the petitioner. It is submitted that the order which is communicated by the Under Secretary (Revenue) is passed patently in breach of the principles of natural justice.

3. I have heard the learned counsel for the petitioner, the learned Additional Government Advocate for the respondents nos.2,3 and 4 and the learned counsel for the respondent no.1.

4. The learned counsel for the petitioner submits that in view of the fact that the order is passed without hearing the petitioner the application for review has to be remitted back to the authority for deciding it afresh in accordance with law. He requests that the interim relief be continued till the authority decides the application for review.

5. The learned counsel for the respondent no.1 has opposed the prayer for continuation of the interim relief on the ground that similar relief was not operating before the Courts below.

6. Having heard the learned counsel for the parties, I find that the petition has to succeed on the ground that the application for review was decided without hearing the petitioner which would be clearly in breach of principles of natural justice. In the circumstances, the petition is allowed. The impugned order/communication dated 15/3/2017 is hereby set aside. The application for review filed by the petitioner on 1/3/2017 is restored back to the file of the Revenue Secretary for deciding it afresh after hearing the petitioner and the respondent no.1 in accordance with law on its own merits, within a period of eight

weeks from today. In view of the fact that the interim relief was operating during the pendency of the petition, the same shall continue for a period of eight weeks from today. Rival contentions of the parties are left open. .

C. V. BHADANG, J.

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