

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.450 of 2018**

Suryakant Kotkar .. Petitioner
Vs.
Mormugao Municipal Council
Thr its Chief Officer and Anr .. Respondents

Shri Raunak Rao, Advocate for the petitioners.

Shri V. V. Pednekar, Advocate for the respondent no.1.

Shri Sudin Usgaonkar, Senior Advocate with Ms. V. Paleykar,
Advocate for the respondent no.2.

CORAM :- C. V. BHADANG, J.

DATE:- 18th June, 2018

ORAL ORDER :

Heard the learned Counsel for the parties, for some time.

2. The petitioner is challenging the order dated 28/02/2018, passed by the Municipalities Appellate Tribunal in Misc. Application No.8/2018 in Municipal Appeal No.34/2017. By the impugned order, the application for intervention filed by the second respondent in the appeal, has been allowed.

3. Shri Rao, the learned Counsel for the petitioner submits that the intervention could not have been allowed. Reliance is placed on the decision of the Delhi High Court in the case of ***Hardayal Singh Mehta and another vs. M.C.D. and others;*** AIR 1990 Delhi 170, in order to submit that Tribunal lacks

jurisdiction to allow intervention/ impleadment. It is submitted that the original complaint filed by the intervenors and others is motivated.

4. Shri Usgaonkar, the learned Senior Counsel for the second respondent has supported the impugned order. He has placed reliance on the Division Bench judgment of this Court in the case of ***Fatima Joao Vs. Village Panchayat Mercas and other***; 2000(2) GLT 341, in order to submit that where the rights of the parties are involved and are likely to be adversely affected, the Tribunal can allow intervention.

5. I have considered the circumstances and the submissions made and I do not find that any case for interference is made out.

6. The Tribunal has found and it is otherwise not in dispute that the second respondent was one of the complainants on whose complaint, the Municipal Council had taken action in respect of the alleged unauthorised construction of the petitioner. The Tribunal has noted that the second respondent, being one of the co-owners, is entitled to seek intervention. The Division Bench of this Court in the case of ***Fatima Joao*** (supra) held that a party whose rights are affected, has *locus standi* to file a civil suit in the matter of illegal construction by a person, which affects the right of such party. There is a long line of decisions of this Court,

wherein similar view has been taken, by which I am bound. Even otherwise, I do not find that the impugned order can be said to have caused manifest injustice to the petitioner.

7. Shri Rao, the learned Counsel for the petitioner, however, contended that the second respondent is raising certain issues, which are not germane to the controversy involved in the appeal and the result of which is the proceedings of the appeal are being prolonged. The apprehension of the petitioner in this regard can be taken care of.

8. In the result, the petition is dismissed. However, the Tribunal shall ensure that the intervention is restricted to the issue of the alleged unauthorised construction of the petitioner and the issues involved in the appeal are not enlarged. In the circumstances, parties to bear their own costs.

C. V. BHADANG, J.

SMA