

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 623 OF 2018
WITH
MISC. CIVIL APPLICATION NO.552/2018.

Shripad Sonu Parab.

.... Petitioner.

Versus

State of Goa, through the Chief

Secretary and ors.

.... Respondents.

Mr. Gaurish Agni, with Mr. Raunak A. Kantak, Advocate for the
Petitioner/Respondents in the MCA No.552/2018.

Mr. Dattaprasad Lawande, Advocate General with Mr. Amogh V.
Prabhudesai, Addl. Govt. Advocate for the Respondents No.1 to 4.

Mr. S. D. Padiyar, with Mr. Ravi Gawas, Advocate for the Applicants
in MCA No.552/2018.

Coram : N.M. Jamdar &
Prithviraj K. Chavan, JJ.

Date : 16 July 2018.

P.C.:

By this Petition, the Petitioner has sought a writ of
mandamus in respect of the construction carried out on Survey
No.6/1 of Village Virnoda, Pernem Taluka.

2. In the Petition, the Petitioner has based the claim for this
writ on the premise that the property where the construction has

been carried out belongs to Respondent No.6-Devashthan, of which the Petitioner is a member. We had directed the Mamlatdar of Pernem to file an affidavit. After looking into the matter, an affidavit has been filed by the Mamlatdar, along with a report, in which the Mamlatdar has stated that there is a dispute raised by the Intervenor in this Petition as regards the title of the land and the structure in question. The Mamlatdar, after recording the versions of the rival contestants, has opined that this is a matter of civil nature where ownership rights will have to be established.

3. Since the Petition entirely proceeds on the premise that the land belongs to Respondent No.6-Devasthan and existence of a dispute has been placed on record as regards the title of the land by the Mamlatdar, it is not possible for us to adjudicate the dispute relating to the ownership of the land as a court of first instance. The Petitioner has his remedy open in the Civil Court of seeking necessary declaration and injunction, etc. Leaving that remedy open to the Petitioner to be pursued on its own merits, we dispose of the Writ Petition, as well as the Intervention Application being Misc. Civil Application No.552/2018.

Prithviraj K. Chavan, J.

N.M. Jamdar, J.