

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 583 OF 2018

TULSI RAMNATH NAIK AND 4 ORS., ... Petitioners

Versus

GAURANG SUCTANCAR AND 10 ORS., ... Respondents

Shri Jagannath Jayant Mulgaonkar, Advocate for the Petitioners.

Shri Shivan Desai, Advocate for the Respondent No. 1/Caveator.

Coram:- C. V. BHADANG, J.

Date:- 4th June 2018

ORAL ORDER:

Heard Shri Mulgaonkar, the learned Counsel for the petitioners and Shri Desai, the learned Counsel for the respondent no. 1/caveator.

2. This Court, by judgment and order dated 11.01.2018, passed in Civil Revision Application No. 1/2018 has upheld the order dated 07.09.2017, passed by the Executing Court, for execution of the consent decree passed in Special Civil Suit No. 122/2005/A, as far back as on 29.10.2005. This is yet another attempt to obstruct the execution of the said decree.

3. The respondent no. 1/decree holder had filed an application, under Order XXI, Rule 35 of CPC on 11.12.2017, before the Executing Court, which has been allowed by the

learned Trial Court by impugned order dated 31.03.2018, directing the petitioners/judgment debtors nos. 1 to 9 to vacate the suit property i.e. house bearing No. 656/A, situated in Chalta No. 2 of P.T. Sheet No. 128, Margao and the hut situated on the eastern side thereof and to hand over the vacant possession, within a period of one month, failing which, a warrant of possession was to be issued.

4. Shri Mulgaonkar, the learned Counsel for the petitioners has raised two grounds. Firstly, it is contended that the order is cryptic and practically unreasoned. Secondly, it is contended that the house, which is supposed to be handed over to the petitioner/s as per the terms of the consent decree, is not in a habitable condition.

5. I am afraid, none of the contentions can be accepted. On carefully going through the order passed by the learned Trial Court, I find that the same cannot be termed as unreasoned or cryptic. The contention that the house is not in a habitable condition has neither been raised before the Executing Court, at any time nor before this Court in the present petition. The learned Counsel for the respondent no. 1/caveator has produced the photographs of the house, which are taken on record and marked 'X' for identification. A bare perusal of the photographs of the house does not show that the house is not in a habitable

condition. Admittedly, the respondents have obtained occupancy certificate way back in the year 2015. In such circumstances, no case for interference is made out. The petition is accordingly dismissed.

C. V. BHADANG, J.

EV