

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 691 OF 2018

VISHRAM KRISHNA KANTAK (DEC) THR.
LRS. AND ANR.,

... Petitioners

Versus

CANACONA MUNICIPAL COUNCIL, THR.
ITS CHIEF OFFICER, CANACONA AND 21
ORS.,

... Respondents

Shri Hanumant D. Naik, Advocate for the Petitioners.

Shri M.B. Costa, Senior Advocate with Shri Pranay A. Kamat,
Advocate for the Respondent Nos. 13 to 22.

Coram:- C. V. BHADANG, J.

Date:- 23rd July 2018

P.C.

This petition was heard and judgment was reserved. However, the matter was again listed for seeking certain clarification on 20.07.2018 and thereafter, on 23.07.2018.

2. I have heard the learned Counsel for the parties. Undisputedly, the first consideration by the Trial Court, in an application for addition/impleadment, filed by the parties, under Order I, Rule 10 of CPC is whether, the proposed parties are proper or necessary parties. It is not disputed and in fact, it is a matter of record that the Trial Court has not considered whether, the proposed parties are proper or necessary parties and it appears that the application is dismissed, only on the ground that

there is delay in filing the application and that there is a direction of this Court for expeditious disposal of the suit.

3. Although, the delay may be one of the additional considerations, while considering a prayer for impleadment, such an application has to be principally decided on the touchstone whether, the parties are proper or necessary parties, which ought to have been done by the Trial Court. Shri Naik, the learned Counsel for the petitioners submits that in such circumstances, the applications at Exhibit 234, 238 and 244 can be sent back to the learned Trial Court, for deciding them afresh and in accordance with law, after hearing the parties.

4. Shri Costa, the learned Senior Counsel for the respondent nos. 13 to 22, who are the principal contesting respondents, states that this Court, may pass appropriate orders as may be deem fit.

5. In such circumstances, the petition is partly allowed. The impugned order dated 29.05.2018, is hereby set aside. The applications at Exhibit 234, 238 and 244 are sent back to the learned Trial Court, for deciding them afresh, in accordance with law. In the light of the observations as made above, in order to facilitate the Trial Court to decide the aforesaid applications and eventually the suit, the period for disposal of the suit is extended

till 30.11.2018.

C. V. BHADANG, J.

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