IN THE HIGH COURT OF BOMBAY AT GOA

STAMP NUMBER MAIN NO. 2228 OF 2012

ANANDIBAI SABLO GAUNS THROUGH POA SUNDAR S. GAUNS AND 6 ORS., ... Petitioners

Versus

VINAYAK ANANT NAIK AND 10 ORS., ... Respondents

Mr.Sudin M.S. Usgaonkar, Senior Advocate with Ms. V. Palyekar, Advocate for the Appellants.
Mr. R. G. Ramani, Advocate for the Respondents

Coram:- C. V. BHADANG, J.

Date:- 24th January 2018

P.C.:

Not on board. Taken on Board.

2. Heard finally by consent of parties.

3. The petitioner is challenging the order dated 31/12/2011 passed by the Civil Judge, Senior Division in Special Civil Suit No.12/1996/A, by which, the plaint is rejected in terms of Order 7 Rule 11 (d) of the Code of Civil Procedure (Code for short).

4. The brief facts are that the petitioners/plaintiffs had filed the aforesaid suit for declaration that the defendant nos. 1, 2 and 3 had no right, title or interest in the suit property bearing survey

no.133/0 of village Navelim and for deletion of their names from the survey records.

5. It appears that the contesting defendants claimed that they are tenants and are in cultivating possession of the suit property and by virtue of the 5th amendment to the Goa, Daman and Diu Agricultural Tenancy Act, 1964, they have become deemed owners of the suit property.

6. On the aforesaid pleadings an issue of tenancy was framed on 16/11/2006 and it was referred to the Mamlatdar. The learned Mamlatdar answered the issue in the affirmative vide judgment and order dated 29/4/2011.

7. The learned trial court thereafter took up the matter taking note of the decision of the Supreme Court in the decision of the Supreme Court in the case of SMT. MADHUMATI ATCHUT PARAB VS. SHRI RAJARAM V. PARAB AND OTHERS, 2009 ALL SCR 388, and the decision of this Court in the case of KEDAR RAMAKANT KAKODKAR VS. AUDUTH TIMBLO [2010 (1) GOA L.R. 475] came to the conclusion that the jurisdiction of the Civil Court as regards to the matters required to be settled, decided or dealt with under Goa, Daman and Diu Agricultural Tenancy Act is barred. In that view of the matter the plaint came to be rejected.

7. On hearing the learned counsel for the parties, I do not find that any case for interference is made out. The writ petition is accordingly dismissed with no order as to costs.

C. V. BHADANG, J.

ap/-