

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.999 of 2017

1. Smt. Mali alias Malini Namdeo Naik,
Amonkar alias Samant,
2. Shri Nitin alias Vinayak Namdeo Naik
Amonkar alias Samant,
3. Shri Nilesh Namdeo Naik Amonkar
alias Samant,
4. Shri Mohan Namdev Naik Amonkar
alias Samant
(deceased, through his LR's)
- 4(a) Smt. Shamala alias Anita Mohan Naik
Amonkar alias Samant (Widow),
- 4(b) Shri Jayesh Mohan Naik Amonkar
alias Samant (son),
both r/o. Advalpal Taluka, Bicholim,
Goa,
- 4(c) Smt. Anuja Anant Pissurlekar (daughter),
- 4(d) Anant Pissurlekar (son in law)
Both residents of Gokulwadi,
Sanquelim, Goa, and
5. Smt. Shamala alias Anita Mohan Naik,
Amonkar alias Samant,
All of major age, residing at Advalpal,
Bicholim Taluka, Goa
Petitioners 1, 3, 4(a) to 4(d), and 5
Represented through their Constituted
Power of Attorney and Petitioner No.2
Mr. Nitin alias Vinayak Namdeo Naik
Amonkar alias Samant. .. Petitioners

Vs.

1. Shri Ravindra Raghunath Samant,
2. Smt. Priyamvada Ravindra Samant,
3. Shri Vishnu Raghunath Samant,
4. Smt. Vidhya Vishnu Samant,
5. Shri Surendra Raghunath Samant,
6. Smt. Alka Surendra Samant
alias Smita S. Samant,
All residing at House No.250,
Kelbaiwada, Mayem,
Bicholim-Goa

7. Smt. Usha Ghanashyam alias Baburao Samant
8. Shri Dinanath Ghanashyam alias Baburao Samant
9. Shri Sadashiv Ghanashyam alias Baburao Samant
10. Shri Anant Ghanashyam alias Baburao Samant
All major of age, residing at Thirtbag-Mayem,
Bicholim-Taluka. .. Respondents.

Shri C. Padgaonkar, Advocate for the petitioners.

Shri G. Shirodkar, Advocate for the respondent nos.1 to 6.

CORAM :- C. V. BHADANG, J.

DATE:- 27th April, 2018

ORAL JUDGMENT :

Rule, made returnable forthwith. Shri Shirodkar, the learned Counsel waives service for the respondent nos.1 to 6, who are the only contesting parties. Heard finally by consent of parties.

2. The present petition challenges the judgment and order dated 31/08/2017, passed by the learned District Judge at Mapusa in Tenancy Appeal No.264/2015. Indisputably, the order challenged before the learned District Judge was passed by the Mamlatdar of Bicholim under the provisions of Goa, Daman and Diu Agricultural Tenancy Act, 1964. It appears that the said appeal was initially filed before the Deputy Collector as per the

Law prevailing then and in view of amendment, conferring jurisdiction to hear appeal on the District Court, the appeal came to be transferred to the District Court. However, the provisions of the Act came to be further amended by the Goa Agricultural Tenancy (Amendment) Act of 2017. Section 9(2) of the Amendment Act, which is relevant for the purpose reads thus :

“9(2). All appeals and revisions against the orders passed by the Mamlatdar, pertaining to the applications and/ or proceedings referred to in sub-section (1), filed and pending with the District Court, if any, immediately before the commencement of the Goa Agricultural Tenancy (Amendment) Act, 2017, shall, on such commencement, stand transferred to the Collector having jurisdiction over such matters and such Collector may proceed to deal with such matters from the stage at which they have reached before such transfer.

It can, thus, be seen that in so far as the appeals and revisions against the orders passed by the Mamlatdar are concerned, the appeals and revisions pending before the District Judge are to stand transferred on the commencement of the Amendment Act 2017. The Amendment Act was published in the official gazette on 31/08/2017, the day on which the impugned judgment was passed. It can, thus, clearly be seen that the day on which the appeal came to be decided, the learned District Judge by virtue of the Amendment Act, had ceased to have jurisdiction to entertain the appeal. In such circumstances, the impugned judgment would be

rendered without jurisdiction.

3. In the result, the following order is passed :

- (i) The petition is partly allowed.
- (ii) The impugned judgment and order is hereby set aside. The appeal is restored to the file of the learned District Judge. The learned District Judge shall transfer the appeal to the learned Deputy Collector at Bicholim, for disposal according to law.
- (iii) Parties to appear before the learned Deputy Collector, Bicholim on 14/06/2018 at 10.30 a.m.
- (iv) Rule is made absolute in the aforesaid terms, with no order as to costs.

C. V. BHADANG, J.

SMA