

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 387 OF 2017**

**NATHA ARJUN NARVEKAR (DEC) REP.
THR. LRS.,**

... Petitioner

Versus

**SHRI DEVI SHANTADURGA SANGODKARIN
DEVASTHAN, THR. ATTORNEY JAIWANT
MAHADEV SANGODKAR.**

... Respondent

WITH

WRIT PETITION NO. 529 OF 2016

**NARAYAN NATHA NARVEKAR
AND 9 ORS.**

... Petitioner

Versus

**DEVI SHANTADURGA SANGODKARIN
DEVASTHAN, REP. BY ITS SPECIAL
ATT. MR. MANOJ ANAND SANGODKAR. .
.... Respondent**

Adv. Valmiki Menezes for the Petitioner.

Adv. Amit A. Palekar for the Respondent.

Coram:- C. V. BHADANG, J.

Date:- 19th October 2018.

P.C.:

The parties have produced consent terms on record, which are

marked “X” for identification. The consent terms are signed by the petitioners and Shri Vinod G. Sangodkar, the Attorney of the Respondent no.1/Devasthan as well as the learned counsel for the parties. The parties admit the correctness of the contents.

2. The respondent/Decree holder had filed Special Civil Suit No.31/1987 against one Govind Sadashiv Bhat Thakur, Shri Vinayak Govind Thakur and Smt.Vandanana Vinayak Thakur (defendants no.1 to 3) along with now deceased, Shri Natha Arjun Narvekar (defendant no.4) and the Comunidade of Bordem, defendant no.5. The petitioners, are the legal representatives of the deceased defendant no.4. The suit came to be decreed by the learned trial court on 29/12/2000 declaring that the suit property i.e. land survey no. 36/4 of village Bordem, is the integral part of the property mentioned in para 1 of the plaint of which the respondent /decree holder is a lawful owner and further restraining the defendants or anybody on their behalf from interfering with the suit property and for mandatory injunction directing the deceased defendant no.4 (the predecessor of the petitioner) to demolish the house standing in the suit property and to restore the property to its original condition.

3. It is a matter of record that the said judgment and decree was challenged both by the defendant nos.1 to 3 and defendant no.4 in separate appeals.

4. The record shows that the defendant nos.1 to 3 had set up a defence that the suit property is owned by the Commundiade of Bordem of which the defendant no.1 to 3 are the tenants and the deceased defendant no.4 was their sub-tenant. The learned counsel for the parties submit that the respondent no.1 settled the dispute between the defendants no.1 to 3 upon which they withdrew their appeal. Thus, the dispute, if any, between the defendant no.1 to 3 stood settled. The defendant no.5 Comunidade neither defended the suit nor challenged the decree. Regular Civil Appeal no.101/2001 filed by the defendant no.4 was dismissed by the learned Addl. District Judge on 19/10/2005 against which a second appeal was filed being Second Appeal no.36/2006 which was dismissed on 23/2/2007. In the meantime, on 23/2/2005 the deceased defendant no.4 filed an application for declaration as a tenant under section 7 of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 before the learned Mamlatdar which is

still pending. On the other hand the respondent no.1 filed Regular Execution Case no.1/2011/A for execution of the decree which is pending before the learned Civil Judge Senior Division, Bicholim.

5. In so far as W.P No.387/2017 is concerned, the petitioners are challenging the judgment and order dated 9/11/2016 passed by the learned District Judge, thereby dismissing the application filed by the petitioners under section 7 of the Tenancy Act.

6. In W.P. No.529/2016, the petitioners are challenging the order dated 29/7/2015 refusing to stay the Execution Proceedings during the pendency of the application for declaration.

7. I have gone through the consent terms and heard the learned counsel for the parties.

8. The parties have enclosed a plan with the consent terms showing the demarcation of a plot of land admeasuring 2011 sq.mtrs. (from out of survey no.36/4 of village Bordem) occupied by the petitioners, wherein they have their residential house which the respondent has

agreed that it is owned by the petitioners on a free hold basis without any encumbrance. The petitioners have agreed to withdraw the application under section 7 of the Act before the Mamlatdar.

9. In such circumstances, Shri Menezes, the learned counsel for the petitioner, on instructions, seeks leave to withdraw both the petitions, in view of the fact that the parties have settled their dispute amicably. The learned counsel for the respondent submits that a copy of the resolution passed by the Devasthan to enter into the consent terms shall be produced before the Executing Court. In such circumstances both the petitions are dismissed as withdrawn, with no order as to costs.

10. The parties would be at liberty to produce a certified copy of the consent terms along with a copy of the resolution of the Devasthan as aforesaid before the Executing Court, which shall pass appropriate orders in accordance with the terms agreed between the parties and in accordance with law.

C. V. BHADANG, J.

ap/-