

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.1142 OF 2017

Mrs. Rosalina De Souza E Lobo,
R/o H.No.11/1,
Vancio Vaddo, Guirim,
Bardez, North Goa,
Major of age. Petitioner.

Versus

1. Village Panchayat of Gurim,
Through its Secretary,
Gurim, Bardez, North Goa.
2. Mr. Amir Shiva Vazrekar,
R/o Vacio Vaddo,
Guirim, Bardez, North Goa,
All major of age. Respondents.

Mr. Prasheen Lotlikar, Advocate for the Petitioner.

Mr. V. Sardessai, Advocate for Respondent No.1.

Mr. Shivadatta Prakash Munj, Advocate for Respondent No.2.

***Coram : N.M. Jamdar &
Nutan D. Sardessai, JJ.***

Date : 21 February 2018.

Oral Judgment (Per N.M. Jamdar, J)

Rule. Rule made returnable forthwith. The Respondents

waive service.

2. By this petition, the Petitioner has challenged the communication dated 22 December 2017 directing the Petitioner to cut a mango tree standing in the property bearing survey No.57/39 at Gurim, Mapusa.

3. Heard the learned counsel for the parties.

4. The principal contention advanced by the learned counsel appearing for the Petitioner is that the impugned order dated 22 December 2017 passed by Respondent No.1-Village Panchayat disclosing no reasons at all and simply relies on the inspection report of the Range Forest Officer. The learned counsel for Respondent No.2 supported the impugned action and contended that whether the tree is standing on the property of the Petitioner, is in dispute.

5. Apart from the ownership dispute between the Petitioner in respect of the property, the question is of cutting a tree, which action cannot be resorted to lightly. There is no independent application of mind by the Village Panchayat. The Village Panchayat has simply relied upon a report of the Range Forest Officer. A copy of the Report is placed on record by the learned counsel for Respondent

No.2. The report though prepared by the Range Forest Officer states that the inspection was done by the Round Forester and the tree was shown by Respondent No.2. There is no reference whatsoever to the presence of the Petitioner. The report cannot be considered the report of the Range Forest Officer, as he has not inspected the site. Further more, the Petitioner was not present when the inspection was taken.

6. These being the lacunas in the impugned action taken by Respondent No.1, the same cannot be sustained. The impugned order dated 22 December 2017 is quashed and set aside.

7. In case the Respondent No.1 proceeds to issue a direction in future for cutting down the tree in question it shall follow principles of natural justice, apply its mind and only after a report is made by the Range Forest Officer himself that it is necessary to do so. Rule is made absolute in the above terms. No order as to costs.

Nutan D. Sardesai, J.

N.M. Jamdar, J.