

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2484 OF 2012

Kantibhai Bhiikabhai Halpati & Ors. .. Petitioners

Vs.

Joao Antonio Mendonca (since deceased)
through Lrs.

1(a) Bernado Mendonca & Anr. .. Respondents

Mr.Atul G. Damle, Senior Advocate i/by Mr.R.R. Lanjekar for the
petitioners.

Mr.Shrishilya S. Deshmukh for the respondent no.2-Collector.

CORAM : R.D. DHANUKA, J.

DATE : 22nd January 2018

P.C.:

. None appears for the respondent nos.1(a) to 1(h) though
served. No affidavit-in-reply is filed by these respondents.

2. Heard learned senior counsel for the petitioner and the
learned counsel for the Collector. I have perused the papers and
proceedings.

3. The Administrative Tribunal, Goa, Daman & Diu at Panaji
has dismissed A.T. Appeal No.1 of 2004 filed by the petitioners and
upheld the order dated 30th April 1997 passed by the learned Collector,
Daman. Learned Collector had dismissed the application for restoration
of the appeal by an order dated 30th April 1997 passed by the learned
Collector, Daman in Appeal No.1 of 1984.

4. A perusal of the record clearly indicates that the learned
Collector has passed the said order in Appeal No.1 of 1984. It appears

that the Administrative Tribunal, Goa, Daman & Diu has allowed the appeal filed by Shri Joao Antonio Mendonca which was filed against the pre-decessor of the original respondent no.2 Bhika Ravia Halpati who expired on 27th September 1989. The order was passed on 27th November 1991. The legal heirs of the respondent no.2 were not brought on record and were not served with papers and proceedings in Land Revenue 2nd Appeal No.31 of 1984. Though these facts were brought to the notice of the Collector, Daman as well as the Administrative Tribunal, Goa, Daman & Diu, both the authorities had dismissed the application for restoration and appeal against the orders dated 30th April 1997 and 31st January 2012 which were passed by the learned Collector as well as the Administrative Tribunal respectively.

5. In my view, since the original respondent no.2 Bhika Ravia Halpati had already expired on the date of passing of an order by the Administrative Tribunal in Land Revenue 2nd Appeal No.31 of 1984, the said order could not have been passed by the respondent no.2-Collector. The entire order is thus without jurisdiction and is accordingly set aside. The subsequent orders are also set aside. The Land Revenue 2nd Appeal No.31 of 1984 is restored to file before the Administrative Tribunal, Goa, Daman & Diu, Panaji. Application for impleadment of the legal heirs of the original respondent no.2 is allowed. Amendment to be carried out by the petitioner in Land Revenue 2nd Appeal No.31 of 1984 within two weeks from the date of communication of this order.

6. The Administrative Tribunal, Goa, Daman and Diu shall decide the said Land Revenue 2nd Appeal No.31 of 1984 afresh without being influenced by the observations made and conclusion drawn in the

said order dated 27th November 1991 passed in the said Land Revenue 2nd Appeal No.31 of 1984 and in accordance with law expeditiously and not later than six months from the date of communication of this order. The petitioner is directed to convey this order to the Administrative Tribunal, Goa, Daman & Diu at Panaji and also to the contesting respondents.

7. Writ petition is disposed of in aforesaid terms. No order as to costs. Parties as well as the Administrative Tribunal, Goa, Daman & Diu at Panaji to act on the authenticated copy of this order.

R.D. DHANUKA, J.