

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 961 OF 2018

JOB AFRANIO AFONSO (DEC) BY ITS
LRS., REP. BY PETITIONER NO. 3 AND
3 ORS.,

... Petitioners

Versus

MELITA FERNANDES AND 4 ORS.,

... Respondents

Ms. A. Agni, Senior Advocate with Ms. Adv. J. Sawaikar for the
Petitioners.

Adv. Sarvesh Kamat Malyekar for Respondent no.1.

Adv. P. A. Kamat for Respondent no.2.

Adv. Rohit Bras De Sa for Respondent no.5.

Coram:- C. V. BHADANG, J.

Date:- 10th January 2019

Oral Order:

Heard Ms. Agni, the learned Senior Counsel for the petitioners. Shri S. Kamat, the learned counsel for the respondent no.1. Shri P. A. Kamat, the learned counsel for the respondent no.2 and Shri De Sa, the learned counsel for the respondent no.5.

2. The challenge in this petition is to the order dated 28/8/2018 passed by the Appellate Authority thereby dismissing the appeal filed by the petitioner challenging the order of the respondent no.2. A bare perusal of the impugned order shows that there was no appearance on behalf of the intervenor i.e. the respondent no.5 herein, for which the appeal could not have been dismissed.

Today the learned counsel for the fifth respondent has filed an affidavit stating that the fifth respondent does not have subsisting interest in the disputed property bearing chalta no.228 to 233 of P.T.Sheet no. 35 of City Survey Panaji and therefore, the fifth respondent does not intend to contest or participate in any proceeding in respect of the said property. This aspect is only noted for putting the record straight. Be that as it may, the impugned order in any event dismissing the appeal cannot be sustained. The learned counsel for the contesting respondent no.1 in all fairness submits that the appeal can be restored back to the file of the Appellate Authority and it be directed to be decided in a time bound manner. In such circumstances, the petition is allowed. The impugned order is hereby set aside. The Municipal appeal no.03/2015 is restored back to the file of the Appellate Authority for disposal according to law. The rival contentions of the parties are left open. The Appellate Authority shall decide the appeal as expeditiously as possible and preferably within a period of six months of the receipt hereof. The parties to appear before the Appellate Authority on 28/1/2019.

3. In the circumstances, there shall be no order as to costs.

C. V. BHADANG, J.

ap/-