

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 366 OF 2019**

PRADEEP DUGGAL, THR. POA, ATUL
PRADEEP DUGGAL.

... Petitioner

Versus

STATE OF GOA, THR. THE CHIEF
SECRETARY AND ANR.

... Respondents

Mr. Gaurish N. Agni, Advocate for the Petitioner.

Mr. Pravin N. Faldessai, Addl. Government Advocate for Respondent
Nos.1 and 2.

**Coram:- M. S. SONAK &
NUTAN D. SARDESSAI, JJ.**

Date:- 27th August, 2019

P.C.

Heard Mr. G. Agni, learned counsel for the Petitioner and
Mr. P. Faldessai, learned Addl. Government Advocate for the
Respondents.

2. The challenge in this petition is to the endorsement/order
dated 19.09.2017 made on the sale deeds dated 26.09.2008 and
02.11.2009 by the Sub Registrar of Canacona declaring the Sale Deeds
as null and void.

3. The record indicates that the Sub Registrar has merely
acted in accordance with the directions in the judgment and decree

dated 18.04.2012 made by the Court of Civil Judge Junior Division, Canacona, in Regular Civil Suit No.1/2010.

4 The aforesaid judgment and decree dated 18.04.2012 was in fact appealed by the Petitioner before the First Appellate Court. However, the First Appeal came to be dismissed.

5. As against the disposal of First Appeal, the Petitioner, has instituted the Second Appeal No.50 of 2013. The appeal is admitted and the interim relief, which is operating reads as follows :-

"Heard Advocate Mr. Agni for the appellants. Issue notice to the respondents, returnable on 27.06.2013.

2. In meantime, the decree of the trial Court which has been confirmed by the appellate Court to the extent it directs the appellants to hand over the possession of the suit properties i.e. Survey Nos.105/11 and 105/12 (part) of village Nagorcem, Pallolem, Canacona Goa, to the plaintiffs and defendants No.4 to 15, is stayed ex-parte."

6. Mr. Agni points out that the interim relief restraining the cancellation or in relation to declaration of the sale deeds dated 26.09.2008 and 02.11.2009 as null and void was specifically prayed for. However, from the order dated 09.05.2013, it is quite clear that such interim relief was not granted by this Court.

7. Accordingly, we see no error in the action of Sub Registrar who has only acted in terms of the judgment and decree dated

18.04.2012. However, we make it clear that the action of the Sub Registrar is subject to the final orders in Second Appeal No.50 of 2013. If this Second Appeal is ultimately allowed, the Petitioner will be entitled to restitution which would include restoration of Sale Deeds dated 26.09.2008 and 02.11.2009 or reversion of the impugned endorsement made therein by the Sub Registrar.

8. In this petition, considering the nature of relief applied for, the Petitioner should have impleaded the Decree Holders in the Regular Civil Suit No.1/2010 as parties. However, since we are not entertaining this petition, we leave the matter at that. The Petitioner to place the copy of this order on the file of Second Appeal No.50 of 2013, by seeking leave from the learned Single Judge where this Second Appeal is pending. Copy of this order to be furnished to the Decree Holders in Regular Civil Suit No. 1/2010. Accordingly, with the aforesaid clarification, we dismiss this writ petition.

NUTAN D. SARDESSAI, J.

M. S. SONAK, J.

at*