

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 335 OF 2019

DR. LUIS AMANDIO COELHO PEREIRA,
THR. HIS CONST. ATTORNEY, J.E.
COELHO PEREIRA AND ANR.,

... Petitioners

Versus

JOAO LUIS PIEDADE BARRETO JR. AND
ANR.,

... Respondents

Mr. Somnath B. Karpe and Ms. A. Tirodkar, Advocate for the
Petitioners.

Coram:- C. V. BHADANG, J.

Date:- 3rd April 2019

P.C.

By this petition, the petitioner, who is the original applicant before the Rent Controller, is challenging the order dated 01.02.2019 passed in Rent Case No.29/2015/D. By the impugned order, application exhibit D-30 and D-33 filed by the respondent no.2-intervenor has been allowed.

2. On hearing the learned Counsel for the petitioners and on perusal of the record and the impugned Order, it is apparent that the second respondent-intervenor is an unmarried daughter of the original tenant Joao Luis Piedade Barreto. Section 2(o) of the Goa(Lease, Rent and Eviction) Control Act, 1968, (Act, for short), which defines a tenant, reads thus :

Section 2(o)- "tenant means any person by whom or on whose account or behalf the rent of any building is, or but for special contract would be, payable and includes (in the event of his death the surviving spouse, or any son, or unmarried daughter or father or mother who had been living with him as a member of his family upto the date of his death and) a sub-tenant and also any person continuing in possession after the termination of his tenancy, but shall not include any person against whom any order, or decree for eviction has been made."

It can thus clearly be seen that a tenant includes a surviving, spouse or a son or an unmarried daughter or the parents of the tenants who had been living with him as a member of his family up to the date of his death.

3. The second respondent-intervenor filed the application claiming that she has been residing in the suit house since her birth along with her parents and other siblings. She also claimed that she has recently joined service in UK and she keeps on visiting Goa. In support of the application she has produced her Aadhar card.

4. The petitioner denied the said aspect claiming that the second

respondent is permanently residing in UK and was not staying in the suit house till the time of the death of the original tenant. In support of his claim, the petitioner has produced the voters list.

5. Mr. Karpe, the learned Counsel for the petitioners submitted that the Aadhar card is an incomplete document and in any event it does not show that it was obtained prior to the death of the mother of the second respondent who died on 05.07.2014 and the father of the second respondent, who is the original tenant, pre-deceased her on 01.09.2007.

6. I am afraid this aspect cannot be gone into at this stage as there are disputed questions of fact. Indisputably, the second respondent is the unmarried daughter of the original tenant and this is covered within the definition of a tenant under Section 2(o) of the Act. The only question is whether she was staying with the original tenant till the time of his/her death which aspect can essentially be gone into when the parties have the benefit of leading evidence.

7. Thus, no case for interference is made out. The petition is accordingly dismissed.

8. The Rent Controller shall decide the application as expeditiously as possible and preferably within a period of one

year from the receipt hereof. Parties to co-operate for the time bound disposal of the matter.

C. V. BHADANG, J.

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