

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 376 OF 2019

Mr. Nicolau Fernandes ... Petitioner

Versus

Mr. Wilson Pereira Carvalho & anr. ... Respondents

Mr. John A. Lobo, Advocate for the Petitioner.

Coram:- C. V. BHADANG, J.

Date:- 25th April, 2019

ORAL ORDER

By this petition, the petitioner is challenging the judgment and order dated 01.02.2019 passed by the learned District judge in Civil Revision Application no.24/2018.

2. By the impugned order, the learned District Judge has set aside the order dated 12.03.2018 passed by the learned Deputy Director of Panchayat at Margao, in Revision Application No.DDPS/1/2018 and has remanded the said revision application to the learned Deputy Director, for deciding it afresh in accordance with law.

3. The brief facts are that the second respondent-Village Panchayat by a Resolution dated 28.04.2015 had carried out transfer of house tax registration in respect of the suit house

in favour of the petitioner which was earlier standing in the name of his late mother Joana Estibeiro. The petitioner claims to be the Mundkar of the house in question. The first respondent-the bhatkar, feeling aggrieved, challenged the same by way of an appeal under Section 201-A(1) of the Goa Panchayat Raj Act, 1994, (Act, for short), before the Block Development Officer (BDO) at Margao. The BDO by an Order dated 27.12.2017, allowed the appeal and restored the house tax registration in the name of late Joana Estebeiro. The petitioner challenged the same before the Deputy Collector of Panchayat in Revision Application No.DDPS/1/2018 under Section 201-A(2) of the Act. The learned Deputy Director by an order dated 12.03.2018, allowed the Revision Application and restored the order passed by the Panchayat, which was thereafter challenged by the first respondent before the learned District Judge in Civil Revision Application No.24/2018 under Section 201-B(1) of the Act, which revision has now been allowed and the revision filed before the Deputy Director of Panchayat has been remanded back for disposal according to law.

4. Mr. Lobo, the learned Counsel for the petitioner, has raised a solitary contention. It is contended that after the petitioner had availed of the remedy of revision under Section

201-A(2) of the Act, before the Deputy Director, it was not open for the respondent to avail of the remedy of revision under Section 201-B(1) of the Act before the learned District Judge. It is submitted that the Act does not contemplate two successive revision applications. It is submitted that the analogy drawn by the learned District Judge from the revision application under Section 397(3) of Cr.P.C. is not correct as in civil law two revision applications cannot be contemplated.

5. On hearing the learned Counsel for the petitioner and on perusal of record and the relevant provisions of Section 201-A and 201-B of the Act, I am not inclined to accept the contention.

6. Section 201-A and 201-B which are relevant for the purpose, read as under :

"Section 201-A – Appeal on miscellaneous matter dealt by the Panchayats. - (1) Where no appeal has been specifically provided in this Act on any miscellaneous matters which is dealt with by the Panchayat or the Village Panchayat Secretary or the Sarpanch, an appeal shall lie to the Block Development Officer within a period of thirty days from the date of refusal of any request by the said authority and his decision on such appeal, subject to the provision of sub-

section (2), shall be final.

Explanation:- For the purpose of this section, "refusal" means rejecting of any request in writing or non conveying of any reply to the application within a period of fifteen days from the receipt of application in his office.

(2) A revision shall lie to the Deputy Director against any order passed by the Block Development Officer under sub-section (1) within a period of thirty days from the date of the order.

Section 201-B. Revision- (1) Save as otherwise provided in this Act, a revision shall lie against any order passed by any authority under this Act to the District Court within whose jurisdiction the subject matter of the dispute lies.

(2) Every revision application shall be filed within thirty days from the date of the order.

(3) The decision of the District Court shall be final and binding on the parties to the revision.

(4) Every such revision shall be decided as expeditiously as possible and endeavour shall be made to decide the same within a period of three months from the date on which it is filed."

7. It can thus clearly be seen that sub section (2) of Section 201-A and sub-section (1) of Section 201-B of the Act, provide for two separate revision applications before two different authorities/Court. While sub-section (2) of Section 201-A of the Act, provides for a revision from any order

passed by the BDO under sub-section (1) of Section 201-A of the Act, Section 201-B of the Act provides for a revision before the District Court against any order passed 'by any authority under the Act'. It can thus clearly be seen that the provisions of Section 201-B of the Act are wide enough to cover any order passed by any authority under the Act.

8. It would be significant to note that there is nothing in sub-section (2) of Section 201-A to show that it attaches finality to the order passed by the learned Deputy Director in a revision under the said Section. Similarly, sub-section (1) of Section 201-B of the Act, also does not restrict the revision application, under the said Section, to orders passed, other than those, in a revision application under sub-section (1) of Section 201-A of the Act. Had the legislature intended to attach finality to the order passed in a revision application by the Deputy Director under sub-section (1) of Section 201-A, nothing prevented it from providing it to that effect. It would be significant to note that Section 201-B(3) of the Act, unlike sub-section 201-A of the Act, attaches finality to the order passed by the District Judge under Section 201-B of the Act. Thus, it is not possible to accept the contention as raised on behalf of the petitioner.

9. The impugned order also does not result into any manifest injustice, inasmuch as the petitioner can contest the revision application on its own merits and in accordance with law.

10. In that view of the matter, I decline to entertain the petition which is accordingly dismissed.

11. Needless to mention that this Court has not examined the rival contentions of the parties on merits of the matter.

12. The learned Deputy Director shall decide the revision application as expeditiously as possible and preferably within a period of six months from the receipt hereof.

C. V. BHADANG, J.

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