

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 255 OF 2019

IN

WRIT PETITION NO. 415 OF 2018

ROSY M. D'SOUZA

.. Applicant

Versus

STATE OF GOA, THR. THE CHIEF
SECRETARY OF GOVT. OF GOA AND 3
ORS.

... Respondents

WITH

MISC.CIVIL APPLICATION NO. 470 OF 2019

IN

WRIT PETITION NO. 415 OF 2018

ANTONIO JOSE DE SOUZA.,

... Applicant

Versus

STATE OF GOA, THR. THE CHIEF
SECRETARY OF GOVT. OF GOA AND 3
ORS.

... Respondents

Mr. Gajendra Usgaonkar, Advocate for the Applicants.

Mr. P. Faldessai, Addl. Government Advocate for the Respondents.

Coram:- S. C. GUPTE &

NUTAN D. SARDESSAI, JJ.

Date:- 24th June 2019

P.C.

These two Misc. Civil Applications have been taken out

in a disposed of writ petition. The writ petition originally challenged the constitutional validity of Goa Land Revenue Code, 1968. This Court, by its order dated 15.06.2018, disposed of the petition observing *inter alia* that before any wider challenge raised by the Petitioner could be considered, the Court had to be convinced that such challenge arises in the facts of the case and is absolutely necessary to be considered for redressal of the grievances made by the Petitioner. The Court noticed that the effective prayer sought in the petition was that she should be supplied with copies of Matriz documents which were not supplied to her despite an order passed by the Chief Information Commissioner, in an RTI application. The Petitioner submitted to the Court that only after these documents were received, would the Petitioner be able to know her liability and thereafter challenge the imposition and levy of tax under the provisions of Goa Land Revenue Code. The Court noted that as of then, there was no challenge on the part of the Petitioner to imposition or levy of tax and directly a general relief regarding constitutional validity of provisions relating thereto had been sought, and that without even adequate pleadings. In the premises, while disposing of the petition, on the basis that the wider constitutional challenge could not be considered as an academic exercise, this Court directed the State to furnish the requisite documents to the Petitioner within a period of six weeks.

2. Misc. Civil Application No.255 of 2019 is made on the footing that the Respondent State has failed to furnish Matriz documents of the property to the Petitioner despite the orders of the Court. The Petitioner submits that it was the case of the Respondent State that Matriz documents were mutilated; the State even called upon the Petitioner to visit the site and acquaint herself with the condition of the Matriz book concerning the subject property. The Petitioner claimed to have visited the site and taken photographs, which she has produced along with her Misc. Civil Application. In view of this state of affairs, the Petitioner requests the Court to recall its order of dismissal passed on 15.06.2018 in the main petition and restore the petition on the file and decide the issues raised therein.

3. There is no merit in the Misc. Civil Application. Even if the Petitioner's case on non availability of Matriz documents, as urged in the present Civil Application, were to be accepted, the fact remains that the Petitioner has not challenged the imposition or levy of tax in her petition but has only sought a general relief concerning constitutional validity of the relevant provisions of Goa Land Revenue Code. Whatever grievance the Petitioner has regarding the tax or levy, she must challenge it separately on the facts of her case and make out that her grievance directly concerns

the constitutional validity of the relevant provisions of law and as a result, the issue of constitutional validity is absolutely necessary to be considered.

4. Misc. Civil Application No.255 of 2019, accordingly, has no merit and is dismissed.

5. Misc. Civil Application No.470 of 2019 seeks to implead the Applicant, who is a third party, as Petitioner No.2 to the disposed of petition. Since we have refused to recall our order disposing of the petition, as noted above, there is no point in entertaining any application for impleadment in the disposed of writ petition. Misc. Civil Application No. 470 of 2019 is also accordingly dismissed.

6. It is clarified that dismissal of Misc. Civil Application No.470 of 2019 shall not come in the way of the Applicant for redressing his own grievances, which are the subject matter of the Misc. Civil Application, before any appropriate forum.

NUTAN D. SARDESSAI, J.

S. C. GUPTE, J.

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