

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 851 OF 2018

KRISHNA BABUSO SHETKAR, THR. ITS
POA, RAJENDRA KRISHNA DESSAI, ... Petitioner

Versus

DAMIAO GOMES (DEC) THR. HIS LRS.
AND ANR., ... Respondents

Mr. Hanumant D. Naik, Advocate for the Petitioner.

Coram:- C. V. BHADANG, J.

Date:- 30th January 2019

ORAL ORDER:

Heard Mr. Naik, the learned Counsel for the petitioner.

2. The challenge in this petition is to the judgment and order dated 30.04.2018, passed by the learned District Judge in Tenancy Appeal No. 3/2017. By the impugned judgment, the learned District Judge has set aside the order dated 07.01.2017, passed by the learned Senior Civil Judge in Tenancy Case No. 100/TEN/2015 and has partly allowed the appeal filed by the respondents. While setting aside the order dated 07.01.2017, the learned District Judge has restored the said case to the file of the learned Trial Court for deciding it afresh and in accordance with law.

3. Both, the petitioners as well as the respondents, are staking rival claims of tenancy in respect of the land, which is subject matter of dispute and which is owned by the respondent no. 2/Comunidade. An objection was raised on behalf of the petitioners to the maintainability of the application under Sections 8 and 8A of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Act, for short) filed by the respondent no. 1, which was upheld by the Trial Court by order dated 07.01.2017. Feeling aggrieved, the respondent no. 1 carried the same in appeal, before the learned District Judge and now, the District Judge has allowed the appeal. Hence, this petition.

4. It is contended by Mr. Naik, the learned Counsel for the petitioner that the application as framed and filed was not maintainable, in as much as the Tenancy Court cannot entertain or decide a dispute between two tenants.

5. On hearing the learned Counsel for the petitioner and on perusal of the impugned judgment, I do not find that any case for interference is made out. The learned District Judge has found that there is also a dispute inter se between the petitioner and the respondent no. 1 with the Comunidade, which is admittedly the landlord. Further more, as submitted on behalf of the petitioner, there is an application under Section 7 of the Act, which is filed by the petitioner herein against the Comunidade, in which, the

respondent no. 1 has intervened himself. In that view of the matter, I decline to entertain the petition. The petition is accordingly dismissed. Needless to mention that the learned Mamlatdar, Quepem shall consider trying both the applications together, in accordance with law.

C. V. BHADANG, J.

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