

IN THE HIGH COURT OF BOMBAY AT GOA.
CRIMINAL WRIT PETITION NO.131 OF 2016.

Cedric Bosco Savio Lobo

... Petitioner.

Versus

State of Goa, Rep. By its
Chief Secretary and three ors.

... Respondents.

Petitioner present in person.

Coram:- PRITHVIRAJ K. CHAVAN, J.
Reserved on:-19th September, 2019.
Pronounced on :-4th October, 2019.

ORDER

The challenge in this petition is to an order dated 24.6.2016 passed by the learned Judicial Magistrate, First Class, “C” Court, Mapusa in Criminal Miscellaneous Application No.164/2012/C.

2. Heard the petitioner who appears in person.

3. The petitioner has filed an application before the learned JMFC, Mapusa seeking an inquiry to be held in terms of Section 340 of

Cr.P.C. against the respondents for making contrary statement on oath before the two different authorities and also seeking a complaint to be lodged against the respondents under Sections 193, 196, 199 and 200 of IPC. The petitioner is a power of attorney holder of Mrs. Ana Elsia Pereira e Mascarenhas and Mr. Roque Honorato Damaciano Mascarenhas. A civil suit is filed against the respondents and two others namely Mrs. Elma Antonia Tereza Pais and Mr. Alziro Santana Tereza Pais seeking a relief of declaration, permanent injunction and mandatory injunction.

4. The defendants in their written statement took a stand that they had constructed a house in the suit property immediately after purchasing the same, however, in the proceeding initiated before the Deputy Director of Panchayat, they took a different stand by stating that house is in existence prior to 1975. This is the crux of the matter.

5. It is the contention of the petitioner that since the respondents/defendants have taken a contrary stand before the two

different authorities which tantamount to giving a false evidence on oath and, therefore, he seeks an inquiry in terms of Section 340 of Cr.P.C.

6. The defendants/respondents have denied the allegations.

7. The petitioner has placed reliance on a few authorities before the learned JMFC.

8. A perusal of the impugned order reveals that the learned JMFC after having given due opportunities to the respective parties and after going through the case laws tendered in support of petitioner's contention, has rightly rejected the application by passing a well reasoned order.

9. In substance, the learned JMFC has observed that it would be premature to hold respondents guilty of forgery where they have not even adduced the evidence in the suit. It has been rightly observed that the plaintiffs in Regular Civil Suit No.103/2010/A who are represented by

the petitioner as their power of attorney, has to prove their claim over the suit property and suit land in the suit. The respondents in that case will have full right to adduce evidence in support of their defence in the suit. It is also observed that the sale deed which is the subject matter of the suit was executed in favour of respondent no.1 in the year 1990 and suit for its cancellation was filed in the year 2010.

10. As such, I do not find any reason to exercise the power of superintendence since, the learned Magistrate has rightly exercised its jurisdiction vested in him inasmuch as there is neither abuse of jurisdiction nor there is unjustifiable refusal to exercise the jurisdiction vested in him. Petitioner is, therefore, not entitled to invoke extraordinary jurisdiction of this Court. Suffice it to say that the learned trial Court shall proceed with suit as expeditiously as possible. Parties shall co-operate with the trial Court in disposing of the matter.

11. Criminal Writ Petition stands disposed of in the aforesaid terms with no order as to costs.

12. All concerned to act on the basis of authenticated copy of this order.

PRITHVIRAJ K. CHAVAN, J.

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