

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 277 OF 2019

SURENDRA GAJANAN SAMANT.

... Petitioner

Versus

SHAMSUNDAR MAHADEV SAMANT AND
ANR.

... Respondents

Petitioner present in person.

Mr. D. Pangam, Advocate General with Mr. Arun A. S. Talaulikar,
Addl. Government Advocate for Respondent No.2.

***Coram:- M. S. SONAK &
NUTAN D. SARDESSAI, JJ.***

Date:- 15th July 2019

P.C.

Heard Mr. Surendra Gajanan Samant, the Petitioner in person and Mr. D. Pangam, learned Advocate General for the State of Goa.

2. The Petitioner, who appears in person has prayed for the following reliefs in this petition :

(1) To quash order dated 06.06.2018 of Junior Civil Judge Bicholim in Case No. Rip/96/2017 & dismiss the case;

(2) Issue writ to State of Goa to amend Inventory Proceeding Act, 2012 by specifying period of limitation of 10 days;

(3) Issue writ to subordinate Courts that Article 137 of the Limitation Act, 1963 is applicable to all suits as well as all applications made under any special local law.

3. In so far as the relief in terms of prayer clause (1) is concerned, we are afraid that we will not be able to entertain this prayer in the present writ petition. However, we grant liberty to the Petitioner to take out appropriate proceedings to challenge the order dated 06.06.2018 before the appropriate forum in case, the Petitioner, is aggrieved by the said order.

4. In so far as the relief in terms of prayer clause (2) is concerned, again, it is not for this Court to issue directions to the State to amend the provisions of law. Therefore, the prayer as prayed for, cannot be entertained.

5. Mr. Samant, however, submits that the prayer has incorrectly worded. He submits that he infact seeks to challenge the provisions of law as according to him, the certain provisions of law are unconstitutional.

6. Accordingly, we grant liberty to the Petitioner, to file appropriate proceedings to challenge the provisions of law which, according to him are unconstitutional or ultra vires. As and when such petition is filed, the same will be considered in accordance with law. For the present, we make no observations in this regard.

7. So far as the prayer (3) is concerned, again, we are not persuaded to issue omnibus directions to the subordinate Courts to comply with the requirements of Article 137 of the Limitation Act, 1963. This is a matter which will have to be adjudicated on the facts and circumstances in any given case. In case the Petitioner is aggrieved by the learned Trial Court complying with the requirements of Article 137, assuming that the same are indeed applicable, it is for the Petitioner to seek appropriate remedies against such orders. However, it will not be appropriate in exercise of extraordinary jurisdiction under Articles 226 and 227 of the Constitution of India, to issue such omnibus directions as prayed for by the Petitioner.

8. Accordingly, with liberties as aforesaid, this petition is disposed of. We make it clear that we have made no observations on the merits or demerits of the rival contentions.

9. The petition is disposed of in the aforesaid terms.

NUTAN D. SARDESSAI, J.

M. S. SONAK, J.

at*