

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 999 OF 2018

JANU NAVELKAR AND ANR., ... Petitioners

Versus

JOSE MARIA DE GOUVEIA PINTO AND 3
ORS., ... Respondents

Shri Samir Taleigaonker, Advocate for the petitioners.

Shri R. G. Ramani, Advocate for the respondents No.1,2 & 3.

Coram:- NUTAN D. SARDESSAI, J.

Date:- 8th April 2019

ORAL ORDER:

Heard Shri Samir Taleigaonker, learned Advocate whose contention was that there was no authorisation to any person named Jose Savio Dias as their constituted Attorney and/or to appoint the Advocate to represent their interest in the suit filed on behalf of the respondents. However, a perusal of the Roznama of the file would reveal that though the defendants were not served in the proceedings, nonetheless it was indicated that the petitioners were served in the proceedings and accordingly a written statement was filed admitting the claim of the respondents when factually it was not so. It was his further contention that the perusal of his application would indicate that the petitioners had not at all authorised any person named Jose

Savio Dias to represent their interest and/or to appoint an Advocate to defend their case. It was only on 26/04/2016 that the petitioners were served in the said proceedings and it is only thereafter that they sought the leave of the Court for bringing all these facts on record and seeking liberty to appoint a new Advocate of their choice. He invited attention to the impugned order and submitted that he would call for an interference by an order of this Court and placed reliance in Karnataka Power Transmission Corporation Ltd. V/s. M. Rajashekar and others [MFA No. 6526/2013] delivered by the Division Bench of the Karnataka High Court at Bangalore holding that a party cannot be denied his right to appoint any Advocate of his choice and that no objection from the Advocate earlier appearing for them is not a sine qua non before engaging a new Advocate.

2. Shri Ramani, learned Advocate submitted that nowhere the application of the petitioners indicated that the earlier Advocate who had purportedly represented them in the proceedings before the Trial Court on the basis of the Power Of Attorney had refused to give his No Objection Certificate to the appointment of a new Advocate. The application was totally silent on this aspect. Moreover it was his further contention that the petitioners were always at liberty to appoint a new Advocate for whatever reason in case they were not duly represented by an Advocate earlier at their instance and that no permission of the

Court was required in that regard. It was his case that there was no infirmity with the order passed by the learned Trial Court. Moreover the respondents as the original plaintiffs were not at all concerned with the Advocate who would represent the interest of the petitioners in the suit filed by them. The petition as such was liable for dismissal.

3. i have heard Shri Taleigaonker, learned Advocate for the petitioners, perused the records to which he invited attention including the application seeking leave of the Trial Court to appoint a new Advocate and besides the judgment passed in Karnataka Power Transmission Corporation Ltd.(supra).

4. i have also taken note of the submissions of Shri Ramani, learned Advocate and on a cursory perusal of the application seeking leave of the Trial Court to appoint a new Advocate, it is abundantly clear as rightly submitted by Shri Ramani, learned Advocate that there is no reference to the fact that the earlier Advocate purportedly representing the interest of the petitioners had declined to give his No Objection Certificate to them. There was also force in the contention of the learned Advocate that for whatever reason the petitioners were always at liberty to appoint a new Advocate and there was no necessity of permission of the Court to appoint a new Advocate to represent their interest.

5. No doubt as urged by Shri Taleigaonkar, learned Advocate that there has been some confusion about the appointment of the constituted attorney and that so called attorney appointed an Advocate to represent the interest of the petitioners, nonetheless no infirmity is found in the order under challenge and in view thereof no interference is called for with the order in exercise of the supervisory jurisdiction of this Court. Nonetheless it is observed that the petitioners shall always be at liberty to appoint an Advocate of their choice to represent their interest in the proceedings initiated by the respondents before the Trial Court.

6. In these terms, the petition stands dismissed with no order as to costs.

NUTAN D. SARDESSAI, J.

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