

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 548 OF 2015

SUDHIR P. DESAI AND ANR., ... Petitioners

Versus

MAGDALENA MONTEIRO @ MAGDALENA
MONTES REP. BY HER POA JOSE
ANTONIO LUIS MONTEIRO AND 4 ORS. ... Respondent

Mr. Devidas J. Pangam, Advocate for the Petitioners.
Mr. Kewal T. Sawant, Advocate for the Respondent no.1(a).

Coram:- C. V. BHADANG, J.

Date:- 3rd June 2019

P.C.

This petition has to be allowed on a short count.

2. The petitioners have filed an application seeking negative declaration as to mundkarial rights and simultaneously a mundkarial issue in Civil Suit No.4/2010 has also been referred to the Mamlatdar of Pernem. The petitioners had sought clubbing of the application for seeking negative declaration and the said issue which obviously have to be tried together.

3. The learned Mamlatdar of Pernem, refused to club the same on the ground that the reference from the Civil Court was not received by the time the impugned order was passed. The said

order has been confirmed in appeal.

3. The learned Counsel for the petitioners points out that by a subsequent letter dated 11.09.2012, the issue has now been referred to the Mamlatdar of Pernem which was earlier mistakenly referred to the Mamlatdar of Bardez.

4. In any event, considering the fact that the issue arising in the Civil Suit and the application for negative declaration is now pending before the Mamlatdar of Pernem, both these cases have to be tried together.

5. In such circumstances, the petition is allowed. The impugned order is hereby set aside. The application for clubbing filed by the petitioners is allowed as prayed. In the circumstances, there shall be no order as to costs.

C. V. BHADANG, J.

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