

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 1002 OF 2018

RADHABAI KRISHNA X. TILVE, THR.
POA BY PETITIONER NO. 6 AND 9
ORS.,

... Petitioners

Versus

STATE OF GOA, THR. CHIEF SECRETARY
AND 3 ORS.,

... Respondents

Mr. Premanand Anand Kholkar, Advocate for the Petitioners.
Mr. D. Lawande, Advocate General with Mr. P. Dangui,
Government Advocate for Respondent Nos.1, 2 and 4.
Mr. Ashwin D. Bhobe, Advocate for Respondent No.3.
Mr. R. Kantak, Advocate for Respondent No.5.

Coram:- R. D. DHANUKA &
PRITHVIRAJ K. CHAVAN, JJ.

Date:- 25th April 2019

P.C.

By this petition filed under Article 226 of the Constitution of India, the Petitioners seek a writ of mandamus directing the Respondents to stop the construction activities on the property no.I and II owned by the Petitioners and various other reliefs.

2. The Respondent No.2 has filed an affidavit in reply in this petition affirmed on 24.04.2019 stating that in so far as Chalta No.187/45 is concerned, the Form-B shows the name of the Comunidade of Morombi-O-Pequeno. It is the case of the Respondent No.2 that an area of 550 square metres of Chalta

No.45(part), P.T. Sheet No.187 was acquired by the Government vide Award dated 07.02.1981 for Respondent No.3 and the compensation in respect of the said land has already been awarded to the Comunidade of Morombi-O-Pequeno.

3. In so far as P.T. Sheet No.73 and Chalta No.13 is concerned, it is the case of the Respondent No.2 that the said property does not reflect the name of the Petitioners in Form-D but shows the names of Neugi family. The Respondent No.2 has asked the Directorate of Survey and Land Records to carry out the inspection and demarcate the area in order to ascertain the claim of the Petitioners. The inspection has already been fixed on 26.04.2019 for carrying out the said process.

4. The learned Advocate General states that in so far as Lane I is concerned, the work is already completed. In so far as Lane II is concerned, the work is still going on. He submits that there are serious disputes of ownership of the Petitioners arise in this petition which cannot be decided by this Court in the petition filed under Article 226 of the Constitution of India.

5. The learned counsel for the Petitioners on the other hand submits that the several documents are already issued in favour of the Petitioners which would indicate the ownership of the Petitioners in respect of those lands in which the Authorities

have started the construction of road and other structures.

6. A perusal of the record indicates that there is serious dispute about the ownership of the Petitioners claimed in the land in question by the Respondent No.2. This dispute cannot be decided by this Court in the petition filed under Article 226 of the Constitution of India. The Petitioners would be at liberty to file appropriate proceedings for adjudication of the title of the Petitioners in respect of the land in question. It is made clear that this Court has not expressed any views on merits of this petition.

7. The writ petition is devoid of merit and is accordingly dismissed.

PRITHVIRAJ K. CHAVAN, J.

R. D. DHANUKA, J.

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