

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 936 OF 2019**

NICOLAO MIRANDA (DEC) REP. BY
LEGAL HEIRS, BERNARDO MIRANDA ... Petitioner

Versus

JOSE BENTO ROSARIO CARDOSO (DEC)
THR. LRS. AND ANR. ... Respondents

Shri Balkrishna Prakash Sardessai, Advocate for the Petitioner.
Shri N. Amonkar, Advocate for Respondents No.1(a) to 1(e).
Shri Chaitanya Prakash Padgaonkar, Advocate for Respondent
No.2.

Coram:- DAMA SESHADRI NAIDU, J.

Date:- 2nd December, 2019

ORAL ORDER:

The petitioner invoked Section 29 of the Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975, and applied to Mamlatdar for purchase of mundkarial property. In those proceedings, the first respondent raised an objection, but that objection was rejected. In the meanwhile, the first respondent died.

2. Aggrieved, the legal representatives of the first respondent filed a revision before the Deputy Collector, in

Revision No.5/2018. In that revision, the second respondent filed an intervention application.

3. Then, the Revisional Authority allowed that application on 19/09/2019. But that was without notice to the applicant, who initiated the original proceedings. Assailing the order, dated 19/09/2019, the petitioner has filed this Writ Petition.

4. In response to the submissions made by the petitioner's counsel, the second respondent's counsel has strenuously contended that the petitioner has taken a solitary technical objection that he did not receive any notice. That apart, he has not established any other substantial ground why the second respondent should not be a part of the proceedings. According to him, even if this Court were to set aside the order and remand the matter, it would serve no other purpose than delaying the proceedings further.

5. Heard Shri B.P. Sardesai, the learned counsel for the petitioner; Shri N. Amonkar, the learned Counsel for the respondent nos.1(a) to 1(e); and Shri C. Padgaonkar, the learned Counsel for the respondent no.2.

6. Indeed, the petitioner is the *dominus litus*, who initiated the original proceedings. In the revisional proceedings that arose out of those original proceedings, a third party—that is, the second respondent—wanted to come on record.

7. Usually, the person who wanted to intervene in the proceedings should first apply to the primary authority and, later, before any other forum which has been seized of the later, collateral proceedings. That apart, even if we confine our discussion to the revision, the petitioner has admittedly been not served with any notice. The intervention application seems to have been allowed on the same day. The right of hearing is an inviolable facet of the principles of natural justice. Having a conjectural conclusion that the outcome would not be otherwise different may not be a ground to dispense with the salutary principles of natural justice.

8. In these circumstances, I set aside the Revisional Authority's order, dated 19/09/2019, and remand the matter.

9. On remand, the Revisional Authority will put the petitioner on notice and hear him, before passing appropriate orders.

The petition, thus, stands disposed of.

DAMA SESHADRI NAIDU, J.

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