

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.71/2021****AGNELO B. D'SOUZA**

... Petitioner

Versus**KEDAR TALAULIKAR & ANR.**

... Respondents

Mr. Raunaq Rao, Advocate for the Petitioner.

Mr. Prasheen Lotlikar, Advocate for Respondent No.1.

Mr. P. Arolkar, Additional Government Advocate for Respondent No.2.

Coram:- **M.S. SONAK, J.**Date:- **22nd June 2021****ORAL ORDER:**

Heard Mr. Raunaq Rao for the Petitioner, Mr. Prasheen Lotlikar for Respondent No.1 and Mr. P. Arolkar, Additional Government Advocate for Respondent No.2.

2. The challenge in this petition is to the enquiry report/order dated 01.02.2021 by which the Human Rights Commission has recommended the restoration of water connection to the house of respondent no.1-complainant within 30 days from the date of the order.

3. Mr. Raunaq Rao the learned counsel for the Petitioner submits and with some justification that the Human Rights Commission is not required to go into the issues of title or otherwise purely civil issues which can be best sorted out before the civil courts. He points out that the petitioner has already instituted the Regular Civil Suit no.280/2017 before the competent civil court and even the respondent no.1 has instituted application seeking declaration of mundkarship before the Jt. Mamlatdar-II being application no.5/2017.

4. Mr. Rao submits that there is evidence on record that the respondent no.1 was also not residing in the suit premises at least since 2014 and therefore, there was no justification for making the impugned order.

5. Mr. Lotlikar the learned counsel for respondent no.1 submits that there is no jurisdictional error in the impugned order. He submits that there is ample material on record that the previous owner had issued NOC in 1979 based on which the water connection was obtained. He submits that upto 2017 the grandmother the respondent no.1 was very much residing in the suit house and taking advantage of her old age, the petitioner secured disconnection. Mr. Lotlikar points out that after the demise of the grandmother of respondent no.1 and his family members are using the suit premises, including for holding all family religious functions. He submits that this petition may

therefore be dismissed.

6. Having considered the rival contentions and perused material on record, according to me, no case is made out to interfere with the impugned order in the exercise of equitable jurisdiction under Article 227 of the Constitution of India. The impugned order has only recommended the restoration of water connection which is to a great extent, a basic necessity.

7. At the same time, interest of the petitioner also deserves to be protected because it is possible that some of the observations in the impugned order are interpreted to mean that the Commission has decided on issues of title or other civil rights of the parties. Therefore, it is made clear that nothing in the impugned order need influence the proceedings instituted by the petitioner before the civil court or for that matter the proceedings instituted by respondent no.1 before the Jt. Mamlatdar-II. The civil court and the Jt. Mamlatdar will have to decide the matters pending before them expeditiously and without, in any manner, being influenced by any of the observations in the impugned order made by the Commission or for that matter the direction for restoration of water connection to the suit structure. Mr. Rao is justified in his submission that the Human Rights Commission cannot decide issues of title or other civil issues, which are otherwise in the domain of the civil courts. The respondent no.1, can therefore,

claim no equities or legal rights on the basis of the restoration of the water connection, which is now not being interfered with.

8. With the aforesaid clarification, this petition is disposed of. The interim order made on 23.02.2021 is hereby vacated. The authorities will therefore have to now act on the basis of the recommendation contained in the impugned order dated 01.02.2021. The period of 30 days for compliance will commence from today since, till today, the operation of the impugned order had been suspended.

9. Now that this Court has ordered expeditious disposal of the civil suit and proceedings before the Jt. Mamlatdar, it is expected that both the parties and their learned counsel co-operate with the Court/Jt. Mamlatdar in the expeditious disposal. In particular, it is made clear that none of the parties shall seek any unnecessary adjournments in these matters.

10. All concerned to act on the basis of an authenticated copy of this Order.

M. S. SONAK, J.