

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION No.342 OF 2019

RAJESHRI ANANDRAO
KERKAR (DEC.) THR. HER
LRS AND 2 ORS.

...Petitioners

Versus

JOHN BAPTISTA FERNANDES(DEC.)
REP. BY HIS LRS AND 2 ORS.

... Respondents.

Mr. Deepak Gaonkar, Advocate for the Petitioners.

Coram :- BHARATI H. DANGRE, J.

Date : 15th January, 2021

P.C.

Heard learned counsel for the petitioner.

2. The respondents are served but none have put in appearance. Since the petition can be disposed of by issuing limited direction, their presence is not necessary.

3. The petitioner has assailed the order passed by the Administrative Tribunal Goa dated 11.12.2018 before which the order passed by the Dy. Collector, Pernem in the tenancy case dated 19.06.2014 was challenged.

4. With the assistance of the learned counsel, I have perused

the writ petition including the impugned order. By the impugned order the revision filed before the Tribunal has been partly allowed and the judgment of the Dy. Collector, Pernem and also the order dated 31.08.2009 passed by the Joint Mamlatdar is also set aside. The matter is remitted to the Mamlatdar for decision afresh in accordance with law after affording reasonable opportunity of hearing to the parties.

5. When the order of the Tribunal is perused, the Tribunal has recorded that the Mamlatdar has fallen into error on declaring the applicants as tenant of the entire property surveyed under no.2/0 of Village Kerim. The Tribunal therefore recorded that they cannot be allowed to suffer on account of the error of the Fact Finding Authority. It is in order to process the facts in a proper way, the Tribunal has deemed it fit to remand the matter to the Mamlatdar for a fresh consideration by taking into account the evidence on record and also affording opportunity to the parties which include the present petitioner. Such order was delivered on 11.12.2018 and the Mamlatdar was directed to decide the matter expeditiously and preferably within a period of 3 months from the appearance of the parties.

6. The writ petition has been instituted in the year 2019 and it is more than two years pending before this Court. Since there is no legal infirmity in the order passed by the Tribunal and on being

confronted, the learned counsel for the petitioner seek a time bound direction to the Mamlatdar to decide the proceedings before it since he has lost valuable period of two years. Since the entire year 2020 was lost on account of the pandemic, it would serve the interest of justice if the Mamlatdar decide the application before 31.03.2021.

7. Needless to state that the other directions issued by the Tribunal in the impugned order would continue to direct the Mamlatdar in arriving at a decision, on or before 31.03.2021.

8. The parties are directed to appear before the Mamlatdar on 27.01.2021.

BHARATI H. DANGRE, J

msr.