

Vinita

IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO.412 OF 2021

SANJAY CHANDRKANT CHARI
AND ANR.

... Petitioners.

VS

ROHIDAS HARICHANDRA
CHARI AND 5 ORS.

... Respondents.

Mr. P. S. Lotlikar, Advocate for the petitioners.

CORAM:MANISH PITALE.

DATE: 30th November, 2021.

P.C.:

By this Writ Petition, the petitioners have challenged the order dated 23.8.2021 passed by the Court of Mamlatdar whereby an application for temporary injunction filed by the contesting respondents in the proceedings pending for declaration of mundkarship, has been allowed and the petitioners have been restrained from carrying out construction during the pendency of the proceedings before the Mamlatdar.

2. There is no dispute about the fact that the petitioners have a remedy of filing an appeal before the Collector against the impugned order passed by the Mamlatdar. The learned Counsel appearing for the petitioners submitted that the present Writ Petition could be entertained for the reason that

there has been a breach of principles of natural justice and that there is absence of reasoning on the part of the Mamlatdar while passing the impugned order.

3. This Court has perused the impugned order. It is apparent from the same that the Counsel appearing for the petitioners were heard in the matter. In fact, a suggestion given by the Mamlatdar was not accepted by the petitioners by giving specific instructions to their Advocate appearing in the matter. Therefore, it cannot be said that there has been breach of principles of natural justice.

4. In so far as the reasons stated in the impugned order are concerned, a perusal of the same shows that the Mamlatdar had given certain reasons as to why he found that the respondents deserve an order of temporary injunction in their favour during the pendency of the proceedings. The reasons on merits were sought to be challenged by the learned counsel appearing for the petitioners by inviting attention of this Court to certain documents, including a report of the surveyor. That would amount to entering into the merits of the matter.

5. This Court is not inclined to do so in the face of the alternative remedy available to the petitioners.

6. Hence, this petition is dismissed with liberty to the petitioners to approach the Appellate Authority i.e Collector against the impugned order passed by the Magistrate. If the petitioners file an appeal before the said Appellate Authority, it shall be taken up for consideration expeditiously.

MANISH PITALE, J.