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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.163 OF 2020

CAETANA B. FERNANDES AND 2 ORS. ... Petitioners.

Versus

VASSANT KRISHNA SINARI ... Respondent.

Mr Galileo Teles, Advocate for the Petitioners.

Mr A.D. Bhobe with Ms Ramona Prazeres, Advocates for Respondent No.2.

Mr C. Padgaonkar with Ms Vaishali Mahato, Advocates for Respondent Nos.1(c) and 1(d).

Mr Shaikh Maksood Moosa present in person.

CORAM: BHARAT P. DESHPANDE, J.

DATED: 7 September, 2023

P.C:

1. Heard Mr Teles appearing for the Petitioner, Mr Padgaonkar for Respondent Nos.1(c) and 1(d) and Mr Bhobe for Respondent No.2.
2. The Petitioner is challenging the impugned order dated 07.02.2020 by which the learned Tribunal passed an order to issue notice to the proposed party.
3. Mr Teles would submit that such application filed before the Tribunal by Respondent No.1 is frivolous and also to delay the

proceedings. The original proceedings were filed before the Inspector of Survey and Land Records, City Survey Margao, by Respondent No.1 to confirm Chalta No.93 of P.T. Sheet No.221 of Margao in his name as the property acquired by virtue of gift deed. In that proceedings, the Inspector of Survey and Land Records considered the matter and granted the said application. Petitioners herein preferred appeal before the Superintendent of Survey and Land Records bearing No. LRC/APP/SSLR/1/2006. By Judgment dated 31.01.2019, the said appeal was allowed and the order of the Inspector of Survey and Land Records was quashed and set aside. Respondent No.1 then filed an appeal before the Administrative Tribunal vide Appeal No.12/2019 challenging the impugned order dated 31.01.2019.

4. During the pendency of the above appeal, Respondent No.1 filed an application for addition of party i.e. Respondent No.2 which is dated 20.12.2019. Petitioner filed reply to the said application dated 17.01.2020 thereby opposing such application. The learned Tribunal passed the impugned order thereby issuing notice to the proposed party i.e. Respondent No.2 herein, which is challenged in the present petition.

5. First of all, it is necessary to note here that though reply is filed by the present Petitioner challenging such application for addition of party, there is no substantive order passed by the Tribunal. The only order is to issue notice to the proposed party. Such order basically serves the principles of natural justice so that before adding the proposed party, the said party should have say in the matter.

6. The contentions raised by the Petitioner is that said proposed party is not necessary or proper party to decide the appeal. This aspect has been raised in the reply filed by the Petitioner opposing such application. All these contentions are still available to the Petitioner while arguing the application for addition of parties. The only advantage before the Tribunal is to hear the proposed party before passing any order other than rejection or allowing such application.

7. If the application is allowed without hearing the proposed party, it would be considered as breach of principles of natural justice. Therefore, the order of issuing notice to the proposed party is not going to affect the contentions raised by the Petitioner while opposing such application.

8. Contention raised on behalf of Respondent that the petition is premature as there is no order affecting any right of the Petitioner, needs to be accepted. The Petitioner has unnecessarily rushed to this Court without arguing the matter on merits for opposing such application before the Tribunal.

9. The supervisory jurisdiction of this Court need not be exercised with regard to the order of issue of notice to the proposed party only with a view to give an opportunity to such proposed party to be heard before deciding such application.

10. The contentions which are raised by Mr Teles, learned Counsel for the Petitioner, are still available with him and could have been raised while opposing such application on merit. In such circumstances, there is

absolutely no merit in the present petition. The petition, therefore, stands dismissed. Interim order stands vacated.

11. All contentions of all parties with regard to such application are kept open. Parties shall appear before the Tribunal on 25.09.2023 at 10:30 a.m.

BHARAT P. DESHPANDE, J.

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FRANCISCO
DSOUZA

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