

Maria S.

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.317 OF 2021

Yessu Narayan Dias, thr. the POA,
Teja Divkar

... Petitioner

Versus

Comunidade of Taliegao, thr. the
Administrator of Comunidade
And 2 Ors.

... Respondents

Mr Period Andrade, Advocate for the Petitioner.

CORAM: BHARAT P. DESHPANDE,J.

DATED : 9th FEBRUARY 2023

P. C.

1. Heard learned counsel Shri Feriol Andrade for the petitioner.
2. The present petition is filed challenging the impugned order dated 04.01.2020 passed in Execution Application No.6/2017 wherein the application for bringing the legal heirs of the deceased decree holder has been rejected.
3. Mr Andrade pointed out that award was passed in favour of the deceased decree holder in Land Acquisition Case No.59/2004 on 12.03.2015. Thereafter, deceased decree holder filed an Execution Application vide Regular Application No.235/2015. Vide order dated 27.05.2016 the Executing Court allowed the said application by

observing in paragraph 7 as under:-

'7. Hence execution application is allowed with the said observation that decree holder is entitled for the said amount of Rs 30,069/- deposited in this court along with interest accrued thereon.

Proceedings stand closed.'

4. Learned counsel Mr Andrade would point out that deceased decree holder had approached the Executing Court. However, she was orally informed that the amount is not lying in the Executing Court. He then submitted another Execution Application was filed bearing No.6/2017 in which the impugned order is passed thereby rejecting the application for bringing legal representatives on record on the ground that the proposed legal representatives failed to show relationship with the deceased.

5. Record clearly goes to show that in Land Acquisition No.59/2004, the award was passed in favour of the original decree holder. Thereafter, the Execution Application was filed bearing no.235/2015. Same was decided vide order dated 27.05.2016 thereby holding the original decree holder as entitled to withdraw the amount deposited in the Executing Court. This Execution Application was disposed of.

6. Thus, there was no need for filing fresh execution proceedings when the Court has already directed the decree holder as entitled to receive compensation awarded by the Land Acquisition Officer.

7. It is seen that no application has been filed by the decree holder for withdrawal of such amount from the Court.
8. Be that as it may, the impugned order is not at all considered to be arbitrary or illegal as the same has been decided on the basis of the death certificate produced on record which is not matching with the name of the deceased decree holder.
9. Having considered the above facts, there is no substance in the present petition.
10. The petition, therefore, stands dismissed.

BHARAT P. DESHPANDE, J.