

Meena

IN THE HIGH COURT OF BOMBAY AT GOA
CIVIL REVISION APPLICATION NO.6 OF 2022
WITH
CIVIL APPLICATION NO.35 OF 2022
IN
CIVIL REVISION APPLICATION NO.6 OF 2022

MARIA FERNANDES (SINCE. DEC.) ... Applicant
THR. LRS

Versus

SECRETARY, VILLAGE PANCHAYAT OF
NUVEM AND 15 ORS. ... Respondents

Mr. V.A. Lawande with Mr. Parimal Redkar, Advocates for the
Applicant.

Ms. Sulekha Kamat, Additional Government Advocate for
Respondent Nos.2 to 12.

Mr. R.G. Ramani, Senior Advocate with Mr. Pranav Shenvi
Kakodkar, Advocate for Respondent Nos.15 and 16.

CORAM: BHARAT P. DESHPANDE,J.

DATED : 2nd MARCH, 2023

P.C.:

1. Heard Mr. V.A. Lawande with Mr. Parimal Redkar, learned
Advocates for the applicant, Ms. Sulekha Kamat, learned Additional
Government Advocate for Respondent Nos.2 to 12 and Mr. R.G.
Ramani, learned Senior Advocate with Mr. Pranav Shenvi Kakodkar,
learned Advocate for Respondent Nos.15 and 16.

2. Mr. Lawande would submit that the application filed for rejection of plaint under Order 7 Rule 11 CPC clearly goes to show that the relevant provision of The Goa Panchayat Raj Act Section 226 was not quoted or considered by the learned Trial Court while rejecting such application.

3. Mr. Ramani appearing for respondent Nos. 15 and 16 would submit that though such provision has not been considered, the suit is maintainable in view of the subsequent developments. Ms. Kamat appearing for the Department of Government submits that such aspect was not raised by the Department before the trial Court.

4. Since the impugned order is absolutely silent about the provisions of The Goa Panchayat Raj Act and more specifically the bar of filing suit as provided in Section 226 of The Panchayat Raj Act, it would be proper to remand the matter back so that the parties could effectively argue the specific bar afresh.

5. The contentions raised by the learned Counsel for the respective parties are specifically kept open. The matter could be remanded for deciding the application afresh by giving an opportunity to the respective parties. It is made clear that this Court has not made any observation on merit as well as on the provision which has been cited by the learned Counsel Mr. Lawande claiming bar on the Civil Courts. The learned trial Court shall decide such application in accord with law and after giving opportunity to both the parties.

6. Having said so, the impugned order dated 24/02/2020 in Civil Suit No.28 of 2018 is hereby quashed and set aside. The application filed by the defendant No.13 under Order 7 Rule 11 CPC is restored.

7. The parties are permitted to file additional reply to such application and thereafter the learned trial Court shall decide it afresh as early as possible.

8. In view of the above, the Civil Revision Application and Civil Application stand disposed of.

9. All concerned to act on the basis of an authenticated copy of this order.

MEENA
VISHAL
BHOIR

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by MEENA
VISHAL BHOIR
Date: 2023.03.02
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BHARAT P. DESHPANDE, J.