

Rekha

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 507 OF 2019

DOMNIC DIAS AND ANR.,

Petitioners

VS

RAYA BHIVA ARONDEKAR
(DEC) THR. HIS LRS. AND 6 ORS.

Respondents

Mr. Shivan Dessai, Advocate with Ms. M. Viegas Advocate for the
Petitioner.

Mr. H. Sirsat, Advocate for the Respondent nos. 4 and 6.

Ms. Prema Matkar, Advocate under Legal Aid Service for the
Respondent no.5.

CORAM : B.P. COLABAWALLA, J.

DATE : 4th January, 2023

P.C.:

1. The above Writ Petition has been filed seeking to quash and set aside the impugned Judgment and order dated 27.02.2019 in Mundkar Revision Application no. 8/2018.
2. Brief facts of this case would reveal that originally the petitioners herein filed Regular Civil Suit against Respondent nos. 1 and 2 herein (the original Defendants) inter-alia seeking a direction to the defendants to give vacant possession of the

structure in the suit property surveyed under Chalta No. 34-A and the extension made thereto.

3. The defendants in the said suit, namely respondent nos. 1 and 2 herein, filed their written statement in October, 1991, wherein they took a plea that they are mundkar. In light of this plea, issues were framed on 24.04.1992 and the mundkar issue was referred to the Mamlatdar for its decision. The Mamlatdar thereafter proceeded with the issue under Case No. MND/SR/ISSUE/7/2005.
4. After giving opportunity to the parties, the Joint Mamlatdar, by his Judgment and Order dated 28.06.2013, held that the respondents herein are not declared as mundkars of House no. 246-A/4, situated in the property bearing Chalta no.34 of P.T. Sheet no. 108 at Billoo Waddo, Mapusa, Bardez, Goa.
5. Being aggrieved by this Judgment and Order, the Respondents herein preferred an Appeal before the Deputy Collector and Sub Divisional Officer, Mapusa, who by his order dated 20.12.2017, upheld the Judgment of the Mamlatdar.
6. Since the Respondents were unsuccessful before the Appellate Authority, they filed Mundkar Revision Application

No.8/2018, before the Administrative Tribunal, Goa. The Revisional Authority, by its Order dated 27.02.2019, inter-alia came to the conclusion that material evidence was not considered by the authorities below and hence remanded the matter back to the learned Deputy Collector to decide the matter on merits and in accordance with law without being influenced by the observations made in the order passed by the Revisional Authority.

7. I have heard the learned counsel for the parties at some length and also perused the papers and proceedings. I have also gone through the impugned order in great detail. After going through the impugned order, I find that the Revisional Authority has passed a detailed and reasoned order. Further, the reasons given for remand are cogent and proper reasons.
8. In these circumstances, I am of the opinion that no interference is called for in the impugned order by exercising my equitable and extra ordinary jurisdiction under Article 227 of the Constitution of India. Writ Petition is accordingly dismissed. However, there shall be no order as to costs.
9. Considering that the suit was filed in the year 1991 and cannot proceed till Mundkar issue is finally decided, the Deputy

Collector, Bardez, is requested to decide Case no.
DC/MND/APL/09/2013 as expeditiously as possible.

B.P. COLABAWALLA, J.