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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.115/2022

MICHAEL MENDONCA, Son of Mario Mendonca, 42 years of age, Landlord, resident of Mendonca House, Bondiem, Taleigao, Ilhas, Goa.

... PETITIONER

Versus

1. COLLECTOR OF NORTH GOA, Panaji-Goa.

2. STATE OF GOA, Through Chief Secretary, Secretariat Porvorim Goa.

3. MR. SAVIO NUNES, Son of Late Jeao Nunes Dias, Age 55 years, Businessman, Resident of H. No. 500/20/1, Filomena Housing Colony, Hill Side Enclave, Lane no.6, Alto Santa Cruz, Bambolim-Goa

4. MR. INACINA MARIA BRAGANCA E MONTEIRO, Major in age, Resident of H. No. 155/A, Bondiem Bhat, Taleigao-Goa.

... RESPONDENTS

Mr U. R. Timble with Ms Yadika Mandrekar, Advocate *for the Petitioner.*

Mr S. P. Munj, Additional Government Advocate *for Respondents no.1 and 2.*

CORAM: M. S. SONAK, J.

DATED: 1st September 2023

ORAL JUDGMENT:

1. Heard Mr U. R. Timble who appears along with Ms Yadika Mandrekar for the petitioner and Mr S. P. Munj, learned Additional Government Advocate for respondents no.1 and 2.

2. Rule. The Rule is made returnable immediately at the request of and with the consent of the learned counsel for the parties.

3. The petitioner challenges the order dated 01.04.2021 made by the Additional Collector, North Goa District, Panaji, Goa returning the appeal memo filed by the petitioner to the petitioner after holding that no appeal lies before the Collector/ Additional Collector and that the same lies to the Administrative Tribunal.

4. An identical issue was considered by this Court in the case of *Smt Chandralekha Chandrakant Naik & Ors. v/s. Shri Anant Yeshwant Naik Gaonkar & Ors. - Writ Petition No.354 of 2022 decided on 18.08.2023*. This Court has taken a view that in case of any appeal against the order made by the Deputy Collector/ Sub-Divisional Officer (SDO), an appeal will properly lie before the Collector/Additional Collector and not before the Administrative Tribunal.

5. Accordingly, this petition will have to be allowed by following the decision in *Smt Chandralekha Chandrakant Naik & Ors. (supra)*.

6. The impugned order dated 01.04.2021 is set aside. The Collector/Additional Collector is directed to decide the petitioner's Second Appeal in accordance with law and after giving opportunity of hearing to all the parties.

7. The petitioner must represent the memo of appeal along with an authenticated copy of this order before the Collector/ Additional Collector. Upon such filing, the Collector/ Additional Collector must accept the memo of appeal without raising any objection regarding the limitation, etc. and issue notice to the opposite party and after hearing all the parties dispose of the petitioner's appeal.

8. Mr Munj, learned Additional Government Advocate for the State is requested to circulate a copy of this Court's decision in *Smt Chandralekha Chandrakant Naik & Ors. (supra)* to the Collectors of both the Districts so that henceforth, such appeals against orders of Deputy Collectors/SDOs are entertained by the Collectors/Additional Collectors.

9. The Rule is made absolute in the above terms without any order for costs.

10. All concerned to act on an authenticated copy of this Order.

M. S. SONAK, J.

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