

IN THE HIGH COURT OF BOMBAY AT GOA

LD-VC-CW NO. 226 OF 2020

Shri Damodar L. Bhat,
Aged 43 years, residing at
House no.16, B Building,
Behind Shree Damodar Saunsthan,
Zambaulim, Quepem, Goa 403705

..... Petitioner

V e r s u s

1. Shree Ramnath Damodar Saunsthan
Represented by its Attorney
Shri Dattaprasad Agni,
Major of age,
Zambaulim, Post Quepem,
Goa 403705
2. Mr. Jaiprakash Shenvi Kunde,
President
Shree Ramnath Damodar Saunsthan
Managing Committee
Major of age,
Zambaulim, Post Quepem,
Goa 403705
3. State of Goa,
Through its Chief Secretary
having his office at
Secretariat, Porvorim, Goa.
4. The Mamlatdar,
and Administrator of
Devasthans,

Sanguem, Taluka, Sanguem-Goa.

5. The Collector,
North Goa District
Having his office at
Collectorate, Panaji-Goa.
6. The Assistant Electrical Engineer,
Division VII, Sub Div-II,
Quepem, Goa.
7. The Assistant Engineer,
Public Works Department,
Water Division,
Sanguem, Goa.

..... Respondents

Mr. Girish Sardessai, Advocate for the Petitioner.

Mr. J. E. Coelho Pereira, Senior Advocate with Mr. S. Karpe, Advocate for the Respondent nos.1 and 2.

Mr. D. Pangam, Advocate General with Ms. Maria Correia, Additional Government Advocate for the Respondent nos. 3 to 7.

Coram :- M. S. SONAK &
M. S. JAWALKAR, JJ.
Date : 3rd November, 2020

ORAL JUDGMENT *(Per M. S. Sonak,J.)*

1. Heard Mr. Sardessai, learned Counsel for the petitioner, Mr. J. E. Coelho Pereira, learned Senior Counsel for the respondent nos. 1 and 2 and Mr. D. Pangam, learned Advocate General for the respondent nos. 3 to 7.

2. We issue Rule in this petition. At the request of and with the consent of the learned Counsel for the parties, we make Rule returnable forthwith.

3. On 01.10.2020, we made the following order in this petition :

“Heard Mr. Girish Sardesai for the Petitioner. Mr. D. Pangam, the learned Advocate General appears, along with Ms. Maria Correia, Additional Govt. Advocate for Respondents No.3 to 7.

2. Issue notice to Respondents No.1 and 2, returnable on 2nd November, 2020. In addition to the usual mode of service, private service is permitted.

3. By keeping the issue of maintainability of such a petition open, taking into consideration the prevalent situation, we restrain the Respondents from evicting the Petitioner from the premises which he is presently occupying, as also from disconnecting the electricity supply and water supply connections to the said premises, until the returnable date.

4. Pendency of this Petition will be no bar to both, the Petitioner as well as the Respondents, seeking recourse to the alternate remedies.

5. *S.O. to 2nd November, 2020.*”

4. Today, Mr. Coelho Pereira, learned Senior Counsel for the respondent nos.1 and 2, pointed out that the petitioner has already availed all alternate remedies before the Mamlatdar, who acts in his capacity as the Administrator. He pointed out that now the petitioner has availed of the alternate remedy, there is no necessity of entertaining this petition or keeping the same pending. He pointed out that even otherwise, petition of this nature will not be maintainable before this Court.

5. Since the petitioner has already availed of the alternate remedy and also obtained some limited interim relief from said authority, it may be only appropriate that the petitioner is relegated to pursue such remedy or any other remedy which is available to him in law.

6. According to us, apart from the issue of maintainability of this petition, any further consideration of this petition could involve adjudication into disputed questions of facts which cannot be appropriately undertaken by us in our extra ordinary jurisdiction.

7. Mr. Sardesai, learned Counsel, however submits that some directions be issued to the Mamlatdar for expeditiously disposing off the proceedings taken out by the petitioner and, until then, the limited protection granted by this Court for that matter with the Mamlatdar itself could be continued.

8. Since the petitioner has already applied for interim reliefs before the Mamlatdar, it would be appropriate if the Mamlatdar is directed to dispose off the petitioner's application for interim relief as expeditiously as possible and, in any case, on or before 15.12.2020.

9. We, however, make it clear that all contentions of parties on the issues of maintainability, etc., are kept open and it will be to the Mamlatdar to decide such issues on their own merits and in accordance with law.

10. Today, Mr. Coelho Pereira, learned Senior Counsel for the respondent nos.1 and 2, on the basis of instructions of respondent nos.1 and 2, states that the status quo will not be disturbed until 31.12.2020.

11. If the Mamlatdar after hearing the parties grants interim relief, then no doubt, the interim relief will operate until the disposal of the proceedings before the Mamlatdar. If, however, the Mamlatdar vacates the interim relief, even then position as it stands now will continue till 31.12.2020, in view of the statement now made by the learned Senior Counsel before us. Needless to add, that the petitioner cannot claim any equities on the basis of this gesture on the part of respondent nos.1 and 2.

12. According to us, the parties to see if whether any amicable solution is possible in this matter. However, that is a matter for the parties to decide.

13. This petition is disposed off in the aforesaid terms. There shall be no order as to costs.

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

M. S. JAWALKAR

M. S. SONAK, J.

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