



Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.45/2026**

MARIA ANGELICA FERNANDES THR
POA RITESH VISHWANATH
RIVONKAR

... PETITIONER

Versus

1. THE CUSTODIAN OF ENEMY
PROPERTY FOR INDIA, Department of
Commerce, Ministry of Commerce and
Industry, Government of India, Kaiser - 1
Hind Building, Currimbhoy Road, Ballard
Estate, Mumbai - 400 038.

2. THE COLLECTOR, Office of the
Collector, North Goa District, Collectorate
Building, Panaji, Goa – 403 001.

3. THE MAMLATDAR OF TISWADI,
Office of the Mamlatdar, Tiswadi Taluka,
Collectorate Building, Opp. Municipal
Garden, Panaji, Goa - 403 001.

... RESPONDENTS

Mr Ajay Menon and Ms M. Simoes, Advocates for the Petitioner.

Mr R. Chodankar, Central Government Standing Counsel for
Respondent No.1.

CORAM: **VALMIKI MENEZES &
AMIT S. JAMSANDEKAR, JJ.**

DATED: **23rd SEPTEMBER 2026**

ORAL JUDGMENT : (Per Valmiki Menezes, J.)

1. Heard Mr Ajay Menon for the Petitioner and Mr R. Chodankar, Central Government Standing Counsel for Respondent No.1.

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

3. The main challenge in this Petition is to the orders dated 08.12.2004 and certificate of the same date issued by the Custodian of the Enemy Property, purporting to have been issued in exercise of jurisdiction under Section 8 and Section 12 of the Enemy Property Act, 1968 (said Act). Further challenge is thrown to the notice dated 05.08.2025, issued by the Mamlatdar of Tiswadi, scheduling an inspection of the Petitioner's property under Survey No.414/6 of Village Calapor on the basis that the same has been declared to be an enemy property under the said Act.

4. According to the Petitioner's case, she purchased the property under Survey No.414/6 of Village Calapor, admeasuring 211 sq.mtrs., by Sale Deed of 24.01.1970. At the relevant time, since the land was not surveyed in terms of the Goa Land Revenue Code which came into force a year later, the property was described in the said Sale Deed as 1/6th of the property inscribed in the Taluka Revenue Office of Ilhas, under Number One Hundred Sixty Seven. However, subsequently, when the new surveys were conducted, it was allotted Survey No.414/6 of Village Calapor with an area of 211 sq.mtrs. Mutation in Survey Records has taken place in the year 1994, in favour of the Petitioner.

5. It is further the Petitioner's case that she received a notice dated 30.07.1996 under the Act informing her that a property by

the name of 20, Bairre, St. Cruz, Plot No.167, area 211 sq.mtrs. which was purportedly the Petitioner's Plot, belonged to an enemy since it was originally owned by one Deodita Cursina Antonia Rego Correia alias Cursina Rego, who was, according to the notice, a Pakistani National. The Petitioner further has averred that by reply of 14.08.1996, the Respondent No.1 was informed that the property was purchased by the aforementioned sale deed from one Deodita Cursina Antonia Rego Correia alias Cursina Rego; the fact that the said Deodita Cursina Antonia Rego Correia alias Cursina Rego was a Pakistani National has been disputed/denied by the Petitioner. The Petitioner avers that pursuant to this notice, the impugned orders dated 08.12.2004 were issued, though according to the Petitioner, the same were never communicated to the Petitioner and she has gained knowledge about the impugned orders only when she received notice of the Mamlatdar and made further inquiries under the Right to Information Act; the Petitioner was thereafter furnished the impugned orders dated 08.12.2004 on 10.11.2025, after which the present Petition was filed.

6. Mr Chodankar, on behalf of the Respondent No.1, submits that the Petitioner has an alternate and equally efficacious remedy of an appeal under Section 18 of the Act. He relies upon an *order dated 13.12.2024 of the High Court of Madhya Pradesh at Jabalpur* passed in the case of *Saif Ali Khan Pataudi v/s. Union of India – Writ Petition No.4980/2015 with connected Petitions* and *an order dated 13.11.2025 passed by the Division Bench of this Court in Pramila Digambar Naik and others v/s. Union of*

India and others – Writ Petition No.1026/2024 (F) in support of his submission.

7. The Custodian of Enemy Property has not filed any affidavit in reply but instead a counter reply has been filed by one Kamaljit A. Kamal, Deputy Secretary in the office of the Custodian of Enemy Property. There is no supporting affidavit to this reply. This reply in substance claims that the property is an enemy property but however, there is no categorical statement made anywhere therein on the basis of any documentation from any inquiry conducted by the authority that the Vendor of the property i.e. Deodita Cursina Antonia Rego Correia alias Cursina Rego was a Pakistani National. There is no affidavit also sworn to substantiate this contention nor any document produced to substantiate this stand. The only document appended to the reply is a truncated copy of the schedule (the entire document is not annexed) where the name of one Deodita Cursina Antonia Rego Correia alias Cursina Rego is seen at Serial No.82 in relation to a property situated at Arpora, a location quite different from that of the Petitioner's property which is village Calapor. However, none of these documents establish that the Vendor named in the Petitioner's deed of sale was a Pakistani National.

8. Under Section 2(b) of the Act, 'enemy' has been defined as under:-

“ *2(b) - "enemy" or "enemy subject" or "enemy firm" means a person or country who or which was an enemy, an enemy subject including his legal heir and successor*

whether or not a citizen of India or the citizen of a country which is not an enemy or the enemy, enemy subject or his legal heir and successor who has changed his nationality] or [an enemy firm, including its succeeding firm whether or not partners or members of such succeeding firm are citizen of India or the citizen of a country which is not an enemy or such firm which has changed its nationality], as the case may be, under the Defence of India Act, 1962, and the Defence of India Rules, 1962 for the Defence of India Act, 1971 (42 of 1971) and the Defence of India Rules, 1971], but does not include a citizen of India other than those citizens of India, being the legal heir and successor of the "enemy" or "enemy subject" or "enemy firm";

[Explanation 1. For the purposes of this clause, the expression "does not include a citizen of India" shall exclude and shall always be deemed to have been excluded those citizens of India, who are or have been the legal heir and successor of an "enemy" or an "enemy subject" or an "enemy firm" which or who has ceased to be an enemy due to death, extinction, winding up of business or change of nationality or that the legal heir and successor is a citizen of India or the citizen of a country which is not an enemy.

Explanation 2. - For the purposes of this clause, it is hereby clarified that nothing contained in this Act shall affect any right of the legal heir and successor referred to in this clause (not being inconsistent to the provisions of this Act) which

have been conferred upon him under any other law for the time being in force;]”

9. Section 5 of the Act vests an enemy property in the Custodian while Section 11 empowers the Custodian, for the purpose of conducting inquiries into the status of a person as an enemy or any particular property that is suspected to be enemy property, to issue notices calling upon persons to furnish information in that regard. The Custodian has in fact issued a notice dated 30.07.1996 to the Petitioner under the provisions of Section 11 of the Act to which a reply was filed. However, from the record we notice that there is no specific finding or order given by the Custodian that the Vendor of the Petitioner's property was a Pakistani National or that the property was declared to be an enemy property after holding an inquiry and hearing the Petitioner. There is no such decision or material produced before us declaring the said Deodita Cursina Antonia Rego Correia alias Cursina Rego, the Vendor in the sale deed, to be a Pakistani National or the property to be an enemy property, after hearing the Petitioner. If this be so, the impugned orders dated 08.12.2004, both under Sections 8 and 12 of the Act, would be wholly without jurisdiction since the prerequisite for exercising jurisdiction under these provisions and for the Custodian to claim the property vests in it would require a declaration that the Vendor of the Petitioner's property was an 'enemy' as defined under Section 2(b) of the Act.

10. We therefore declare the orders dated 08.12.2004 under Sections 8 and 12 of the Act to be without jurisdiction and

consequently we quash and set aside the same. All subsequent communications, notices or orders, which follow the impugned orders would necessarily have also to be declared to be a nullity as they are based upon the impugned orders dated 08.12.2004. In these circumstances, when the challenge to the order is on the premise that the same was passed without jurisdiction under the Act, in our opinion, relegating the Petitioner to an alternate remedy of appeal would be unfair, since the impugned orders themselves are without any jurisdiction. The impugned orders being without jurisdiction, would be therefore be amenable to writ jurisdiction under Article 226 of the Constitution of India, and no purpose will be served to relegate the Petitioner to a remedy of appeal.

11. We therefore make Rule absolute in terms of prayer clauses (a), (b) and (c) of the Petition. As a consequence of Rule being made absolute, since the name of the Custodian of Enemy Property is now recorded in the Occupant's Column of the land under Survey No.414/6 of Village Calapor, we direct that the Revenue Authorities i.e. the Mamlatdar, Tiswadi Taluka/Collector of North Goa delete the entry and restore the entry of the Petitioner's name as it originally stood in the survey record under Form I and XIV in land under Survey No.414/6, Village Calapor.

AMIT S. JAMSANDEKAR, J.

VALMIKI MENEZES, J.