

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 8/2015**

Macedenio Alcacoas,
major of age, Indian National,
r/o. House No.232,
Ranalem, Arrosim, Mormugao, Goa. Petitioner.

V/s.

1. The State of Goa, through its
Chief Secretary, having office at
Secretariat, Porvorim, Goa.

2. The Collector, South Goa
District, South Goa Collectorate
Building, Margao, Goa.

3. The Mamlatdar of Mormugao
Taluka, Office of Mamlatdar of
Mormugao Taluka, Vasco-da-Gama,
Goa.

4. The Village Panchayat of
Cansaulim-Arrosim-Cuelim, through
its Secretary, Cansaulim, Goa.

5. The Secretary, Village Panchayat
of Cansaulim-Arrosim-Cuelim,
Cansaulim, Goa.

6. The Custodian of Enemy Property,
Office of the Custodian of
Enemy Property, Kaiser-I-Hind Building,
Currimbouv Road, Ballard Estate,
Post Box No.689, Mumbai 400 001. Respondents.

Shri S. S. Kantak, Senior Advocate with Mr. A. Kamat, Advocate for the petitioner.

Shri A. N. S. Nadkarni, Advocate General with Shri P. Dangui, Additional Govt. Advocate for respondents No.1 to 3.

Shri B. Sardesai, Advocate for respondents No.4 and 5.

Shri D. Lawande, Asst. Solicitor General for respondent No.6.

**CORAM :- F.M. REIS &
K.L. WADANE, JJ.**

Date :- 6th January, 2015.

ORAL JUDGMENT : (PER F.M. REIS, J.)

Heard Shri S. S. Kantak, learned Senior Counsel appearing for the petitioner, Shri A.N.S. Nadkarni, learned Advocate General appearing for respondents No. 1, 2 and 3, Mr. B. Sardesai, learned Counsel appearing for respondents No.4 and 5 and Mr. D. Lawande, learned Assistant Solicitor General appearing for respondent No.6.

2. Rule. Rule made returnable forthwith. Heard by consent.

3. Upon hearing the learned Counsel appearing for the respective parties, and taking note of the grievance raised by the petitioner, we find it appropriate in the interest of justice to

conveniently dispose of the above writ petition, by issuing directions as stated herein below.

4. The dispute in the present writ petition is with regard to the property bearing Survey No.101/23 of Village Arossim, Mormugao Taluka which is stated to be in the name of respondent No.6 though it is the contention of Shri S. S. Kantak, learned Senior Counsel appearing for the petitioner that the said property was originally in the name of the predecessor-in-title of the petitioner. As far as the area of the respondent No.6, the learned Senior Counsel appearing for the petitioner contends that it is restricted to an area of 57.25 sq. metres. Shri Lawande, learned Asst. Solicitor General appearing for respondent No.6 is not in a position to confirm the veracity of the said statement of learned Senior Counsel appearing for the petitioner.

5. Be that as it may, the allegations against the petitioner are due to the dumping of stones in the said property which is claimed to be belonging to the petitioner, though a portion thereof apparently is vested in the respondent No.6. The exercise of demarcating respective portions of the properties belonging to the petitioner and the respondent No.6 would have to be undertaken by the appropriate

authorities, in accordance with law.

6. Shri Kantak, learned Senior Counsel appearing for the petitioner, upon instructions, states that the petitioner would initiate proceedings to partition the said survey holding within a period of two weeks before the competent authority. In case such proceedings are initiated, they shall be examined by the concerned authorities, after hearing all the concerned parties, in accordance with law. Until such dispute is finally resolved, the directions contained in the impugned communication dated 31/12/2014 shall stand in abeyance. Respondent No.5 shall act on such directions only after the said proceedings are finally disposed of by the concerned authorities, in accordance with law. All contentions of both the parties, on merits, are left open. It is made clear that while disposing of the above writ petition, we have not examined the merits of the respective claims.

7. Rule stands disposed of accordingly.

Parties to act on duly authenticated copy of this order.

K.L. WADANE, J.

F.M. REIS, J.

ssm.