

IN THE HIGH COURT OF BOMBAY AT GOA**PUBLIC INTEREST LITIGATION WP NO. 12/2015**

Vijay Laxman Bhike,
43 years of age,
son of Laxman Bhike,
r/o. H.No.33, Gausawada,
Mapusa, Bardez, Goa,
National Unique Identity Number NIL,
Mobile No.9326118374
PAN card No.AESPB0907M,
Email Address : NIL,
Annual income : 9,00,000/-.

..... Petitioner.

Versus

1. State of Goa, through its Chief Secretary, Secretariat, Alto Porvorim, Bardez, Goa.
2. The Collector, North Goa, Government of Goa, Panaji, Goa.
3. The Deputy Collector & Sub-Divisional Officer, Bardez, having office at Mapusa, Goa.
4. Mamlatdar of Bardez, Mapusa, Bardez, Goa.
5. Town Planner, Town and Country Planning Department, Mapusa, Goa.
6. M/s. Boshan Developers Pvt. Ltd., duly incorporated body, having its registered Office at B4/101, Boshan House, Opposite Bodgeshwar Temple, Mapusa, Goa, through its Directors :

a) Amir Sadashiv Gaitonde, major of age, service, r/o. H.No.B4/101, Boshan Home, Opposite Shri Bodgeshwar Temple, Mapusa, Goa.

b) Vidyasagar S. Thali, major of age, service, r/o. H.No.B4/101, Boshan Home, Opposite Shri Bodgeshwar Temple, Mapusa, Goa.

7 Kum. Sonia Mahadev Pednekar, alias Supriya M. Pednekar, r/o. House No. not known, Khorlim, Mapusa, Bardez, Goa.

8. Smt. Surekha Mahadev Pednekar, major, d/o. Late Mahadev Pednekar, r/o. House No. not known Khorlim, Mapusa, Bardez, Goa.

9. Gunaji Mahadev Pednekar, major, s/o. late Mahadev Pednekar, r/o. House No. not known, Khorlim, Mapusa, Bardez, Goa.

10. Smt. Udaybala Dwarkanath Joshi, widow of late Dwarkanath Joshi, major, retired, r/o. House No. 129/1, Madia wada, Sai, Bicholim, Goa.

11. Siddharth Dwarkanath Joshi, s/o. late Dwarkanath Joshi, major, married,

12. Smt. Shambhavi S. Joshi, daughter-in-law of late Dwarkanath Joshi, major, married, both r/o. House No.129/1, Madla wada, Sai, Bicholim, Goa.

13. Smt. Minal Mangesh Vernekar, D/o. late Dwarkanath Joshi,

major, married, service,

14. Mangesh Yeshwant Vernekar,
s/o. late Yeshwant Vernekar,
major, married, businessman,
both r/o. Flat No.F/2, C/4,
Essar Residency, Taleigao, Tiswadi, Goa.

15. Smt. Gauri Prakash Shetye,
d/o. late Dwarkanath Joshi,
major, married, housewife,

16. Dr. Prakash Shambu Shetye,
s/o. Shambu Shetye, major, married,
both r/o. House No.656,
Deolai, Khandola, Post Marcel, Goa.

17. Smt. Deepa Chandrashekhar Mantri,
d/o. late Dwarkanath Joshi,
major, married, service,

18. Chandrashekhar Vinayak Mantri,
s/o. Vinayak Mantri,
major, married, service,
Both r/o. Pot No.261,
R.K. Nagar, Near Mall,
Kolhapur, Maharashtra.

..... Respondents.

Mr. Nigel da Costa Frias, Advocate for the petitioner.

Ms. Sapna Mordekar, Addl. Government Advocate for the
respondents No.1 to 5.

Mr. Shivan Desai, Advocate for the respondent No.6.

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

Date : - 23rd July, 2015.

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

Heard Mr. Nigel da Costa Frias, learned Counsel appearing for the petitioner, Ms. Sapna Mordekar, learned Additional Govt. Advocate appearing for the respondents No.1 to 5 and Mr. Shivan Desai, learned Counsel appearing for the respondent No.6.

2. Rule. Heard forthwith, with the consent of the learned Counsel. Learned Counsel appearing for the respondents waive notice.

3. Upon hearing the learned Counsel appearing for the respective parties, we find that the relief sought by the petitioner in the above Public Interest Litigation, inter alia, reads thus :

“ For a direction to the Respondent Nos. 1 to 5 to forthwith enforce and implement the provisions of Goa Land Revenue Code; The Goa Land Use Act and the Goa Agricultural Tenancy Act and thereby prevent illegal/misuse of agriculture land and thereby to forthwith initiate action against the illegal construction in the suit property admeasuring 3294 sq. mtrs., surveyed under P.T. Sheet No.161, Chalta No.3/3 of City Survey Mapusa and forthwith stop the construction therein”

4. The respondent No.6 has filed an affidavit and has, inter alia, stated at para 2 that no building/construction activity is being undertaken in the suit property bearing Chalta No.3/3 of P.T. Sheet No.161 of City Survey Mapusa. Taking note of the said averments in the affidavit, the apprehension of the petitioner that the respondent No.6 is intending to carry out construction activity in the said portion of the property bearing Chalta No.3/3 of P.T. Sheet No.161 of City Survey Mapusa, would no longer survive, by accepting the said statement in the affidavit filed on behalf of the respondent No.6

5. Mr. Shivan Desai, learned Counsel appearing for the respondent No.6 further submits, upon instructions of the respondent no. 6, that in case the respondent No.6 decides to use the said portion of the property bearing Chalta No.3/3 of P.T. Sheet No.161 of City Survey Mapusa for any other purpose, such activity would be carried out by complying with the due process of law. Accepting the said statement of Mr. Shivan Desai, learned Counsel appearing for the respondent No.6, we find that there is no reason to keep the above writ petition pending before this Court, at this stage.

6. The above petition stands accordingly disposed of, accepting the statement made on behalf of respondent No.6, more particularly in para 2 of the affidavit, as well as the statement of the learned Counsel appearing for the respondent No.6, referred to herein above, keeping all contentions of both the parties, on merits, open.

The petition stands disposed of accordingly, with no order as to costs.

K.L. WADANE, J.

F.M. REIS, J.

ssm.