

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 888 OF 2016

1. Shri Chandrakant Kamble,
2. Shri Kanna Naik,
3. Shri Natraj Gaunder,
4. Shri Mahammad Gaus,
5. Shri Shamshuddin Nadaf
6. Shri Ramesh Naik,
7. Shri Krishna Naik,
8. Shri Rafiq Talwar,
9. Smt. Sushila Naik,
10. Smt. Bharati Mandal,
11. Shri Anthony Raj,
12. Shri Arunasalam Mozelar,
13. Shri Parashuram Naik,
14. Shri Tannu Susai,
15. Shri Ramesh Rathod,
16. Smt. Shantabai Malegamani,
17. Shri Sham Naik,
18. Shri Ashok Rathod,
19. Shri Ramu Kanna Naik,
20. Smt. Kasim B. Shaikh,
21. Shri Rayappa Gaunder,
22. Shri Ganesh Malegamani

All majors, all Indian Nationals,
All residents of 20 point programme,
Livrament Waddo, Sangolda,
Bardez Goa

... Petitioners

Versus

1. State of Goa,
Through its Chief Secretary,
Secretariat, Porvorim Goa
2. Deputy Collector &
Sub-Divisional Magistrate,
North Goa and Incharge of Demolition Squad
having office at North Goa District

3. Administrator of Comunidade
North Goa Zone,
Mapusa Goa
4. Comunidade of Sangolda,
Through its Attorney
having office at Sangolda,
Near Village Panchayat of Sangolda,
5. Deputy Collector & Sub-Divisional
Magistrate, Bardez, Mapusa,
Bardez Goa.
6. Superintendent of Police North,
having office at Porvorim,
Bardez Goa.Respondents

Mr. G. Teles, Advocate for the petitioners.

Mr. S. D. Lotlikar, Advocate General with Mr. A. Jamadar, Addl.
Government Advocate for the respondent Nos. 1 to 3 and 5 to 6.

Mr. J. E. Melo, Advocate for the respondent no.4.

**Coram:- F. M. REIS &
NUTAN D. SARDESSAI, JJ.**

Date:- 6th October, 2016

ORAL JUDGMENT (Per F. M. Reis, J)

Heard Mr. G. Teles, learned counsel appearing for the
petitioners, Mr. J. E. Melo, learned counsel appearing for the
respondent no.4/Comunidade and Mr. S. D. Lotlikar, learned
Advocate General appearing for the respondent nos. 1 to 3 and 5 to 6.

2. Rule. Heard forthwith with the consent of the learned counsel.

3. The learned counsel appearing for the respective respondents waive service.

4. Though when the petition was circulated for urgent relief, we were not inclined to grant any ad-interim reliefs. Considering the orders which were in operation, the parties sought time to work out a solution whereby the petitioners could be given time to vacate the subject premises located in the property belonging to the respondent no.4/Comunidade.

5. Mr. Teles, learned counsel appearing for the petitioners pointed out that as the children of the petitioners are admitted in the surrounding schools, time may be granted to vacate the subject premises. The above petitioners were accordingly examined in the context of a mercy petition only to examine whether time could be granted to the petitioners to vacate the subject premises. The respondent no.4/Comunidade after discussion pointed out that only on humanitarian grounds the respondent no.4 were agreeable to give

time to the petitioners to demolish and vacate the subject premises on or before 31.03.2017. The petitioners were thereafter directed to file an undertaking to this Court to that effect. Accordingly, when the matter was taken up today, Mr. Teles, the learned counsel appearing for the petitioners has filed an undertaking duly signed by the petitioners whose signatures are identified by the learned counsel appearing for the petitioners.

6. Mr. Melo, learned counsel appearing for the respondent no.4/Comunidade upon instructions of the attorney of the respondent no.4 has accepted the terms of such undertaking and in recognition thereof has signed thereon. The undertaking is accepted and marked 'X' for identification.

7. Mr. Teles, learned counsel appearing for the petitioners however points out that it be clarified that the said undertaking should not affect the petitioners to avail of any remedy in law if at all they are so entitled in any subsequent changed circumstances in law. It is well settled that there can be no estoppel against law. In such circumstances, no further clarifications are required.

8. In view of the above, we dispose of the above petition by accepting the said undertaking marked 'X' for identification. Rule is made absolute in the above terms. The petition stands disposed of accordingly. Place the matter for compliance report in the month of April, 2017.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

at*