

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 1173 OF 2016

Shri Aniruddha L. Panse Petitioner

Versus

The Administrative Tribunal and Another Respondents

Shri Devidas J. Pangam and Shri S.P. Munj, Advocates for the
Petitioner.

CORAM:- C. V. BHADANG, J.

DATE:- 6th JANUARY, 2017

ORAL ORDER:

The petitioner is challenging the order dated 29.06.2016, passed by the learned Administrative Tribunal and the order dated 16.02.1976, passed by the learned Collector.

2. The brief facts necessary for the disposal of the petition may be stated thus:

That, under a title of concession no.1877 dated 09.11.1951, the land which is subject matter of dispute at village Sanguem was leased to one Santana D'Cruz, a resident of Margao, for the purpose of cultivation on condition of payment of rent.

After coming into force of the Goa, Daman and Diu Land Revenue Code, 1968 (the Code, for short), the property was surveyed under no.38 and the name of Santana D'Cruz was recorded in Form I & XIV as a lessee, in the other rights column and the State Government was shown as the owner.

3. Santana D'Cruz sold the said land under registered sale deed dated 24.10.1973 to now deceased, Laxman Panse (father of the petitioner) and one Rajgonda Patil, since deceased. Admittedly, the names of Laxman Panse and Rajgonda Patil have not been mutated in the revenue record of the said land.

4. According to the petitioner, Rajgonda Patil was working with now deceased Laxman Panse as his Assistant and the name of Rajgonda Patil was shown as one of the purchasers, for the sake of convenience and to complete the legal formalities, however, the entire consideration of Rs.5,000/- was paid by Laxman Panse. Further, according to the petitioner, Laxman Panse was a railway contractor and doing business in Goa region. After the purchase of the said land, Laxman Panse shifted to Pune, after which he was

continuously ill and bed ridden, till the time of his death on 08.07.1991. Rajgonda Patil died on 22.11.1975. The petitioner claims that after the death of Laxman Panse, the petitioner and his brother are the only legal heirs and exclusive owners of the land. It is claimed that Laxman Panse during his lifetime has told the petitioner about the said property, however, as no documents and details of the property were available, the petitioner could not act within time. However, after continuously pursuing the matter with Government offices, the petitioner traced the copy of the sale deed dated 24.10.1973 on 12.12.2011. Subsequently, the petitioner obtained copy of the survey plan, copy of Index-3 and Form I & XIV and the title certificate dated 09.11.1951.

5. In the meantime, the respondent no.2 by an order dated 16.02.1976 had ordered reversion of the land to the Government, directing restoration of possession. This order is passed by respondent no.2, in exercise of powers under Section 21(2)(f) of the Code, read with Rule 15(e) of the Goa, Daman and Diu Land Revenue (Disposal of Government Lands) Rules, 1971 (the Rules, for short). The petitioner also obtained the copy of the

said order dated 16.02.1976 and ultimately, filed an application before the respondent no.2 on 10.07.2013, for regularisation of the grant. The petitioner has *inter alia* prayed for setting aside of the order dated 16.02.1976 and for regularisation of the grant/re-grant and for effecting mutation in the revenue record. The respondent no.2 rejected the application on 13.08.2013 with the following order:

"Shri Aniruddha Laxman Panse, R/o 110, Shanlwar Peth, Nene Ghat, Pune-411 030 (Maharashtra) attended in person. He informed that the Order passed by the Collector in the year 1976 was misplaced and therefore he and his father were not in a position to make any representation to revoke the said order. He also admitted that there is no cultivation at the said site and only some trees are existing.

Although, he says that the land is in his possession, he is unable to explain as to why he is not cultivating nor has fenced the said land. Hence, I felt that there is no substance in his request to consider his application dated 10/07/2013 for regularization, wherein Government Order is dated 16/02/1976 i.e. after lapse of 37 years and as such the same is hereby rejected."

6. The petitioner sought to challenge the said order dated 13.08.2013 and the order dated 16.02.1976 before the Administrative Tribunal in appeal alongwith an application for condonation of delay being Miscellaneous Civil Application No. 119/2014. The Administrative Tribunal by the impugned order has dismissed the application, which is subject matter of challenge in this petition.

7. I have heard Shri Pangam, the learned Counsel for the petitioner and perused record.

8. It is submitted on behalf of the petitioner that the deceased father of the petitioner had left Goa shortly after the purchase of the land and had shifted to Pune. It is submitted that the father of the petitioner was ailing and was bed ridden and at the relevant time, as the petitioner and his brother were minors, could not take steps for getting the land mutated in the name of the father of the petitioner or for cultivating the land. It is submitted that thus, the inaction on the part of the petitioner was

neither the result of negligence nor out of dereliction. It is submitted that the father of the petitioner had paid an amount of Rs.5,000/- in the year 1973, for purchasing the land and as such, the father of the petitioner and for the matter of that, the petitioner did not stand to gain by approaching the Collector late. It is thus submitted that the Tribunal ought to have condoned the delay. It is submitted that the Tribunal could not have gone on merits, while deciding the issue of condonation of delay. It is submitted that all that the petitioner desires is a hearing and re-consideration by the Collector of the order dated 16.02.1976, as no notice of the proceedings for reversion of the land was ever served on the father of the petitioner.

9. I have carefully considered the circumstances and the submissions made and I do not find that a case for interference is made out. Admittedly, a title concession was granted to Santana D'Cruz by the Government on 09.11.1951, on the condition of payment of rent, amongst other conditions about the personal cultivation of the land, within the period fixed in the title certificate/concession. The father of the petitioner alongwith

Rajgonda Patil purchased the land on 24.10.1973. However, admittedly, their names were not mutated in revenue record of the lands. Thus, there was nothing on record before the Collector, showing transfer of ownership in favour of Laxman Panse, so as to expect a notice being issued to him. Although, Rajgonda Patil died within two years of purchase of the land, Laxman Panse died in the year 1991. Although, it is claimed that Laxman Panse had shifted to Pune, there is no specific time mentioned as to when he shifted to Pune and since when he was ailing. That apart, on his own saying, the petitioner claims that during the lifetime, Laxman Panse had told about the said property to him. The Tribunal has found and to my mind rightly so, that the petitioner was also aware of the order dated 16.02.1976. In para 8 of the impugned order, the Tribunal has noticed that the petitioner had stated before the Collector that the order passed by the Collector in the year 1976 was misplaced and therefore, he and his father were not in position to make representation to revoke the said order. It is admitted by the petitioner that there is no cultivation at the said site and only some trees are existing. It can thus be seen that although, the petitioner was aware about the land purchased by

his father and also of the order dated 16.02.1976, the application for recall of the order and regularisation came to be made after lapse of 37 years. The Tribunal after noticing these circumstances had refused to condone the delay. I do not find that the impugned order suffers from any infirmity so as to warrant interference in the exercise of supervisory jurisdiction of this Court under Article 227 of the Constitution of India.

The petition is without any merit and it is accordingly dismissed, with no order as to costs.

C. V. BHADANG, J.

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