

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 453 OF 2018**

1. Mr. Anant Rama Govekar, R/o H. No. 9/4,
Coniwada, Colvale, Bardez, Goa.
2. Mr. Sudhakar Raghuvir Morajkar, R/o H.
No. 11/4, Coniwada, Colvale, Bardez,
Goa. Petitioners

Versus

1. State of Goa, Through Chief Secretary,
Secretariate, Porvorim, Goa.
2. Office of the Mamlatdar of Bardez
Mapusa, Goa, Government Offices
Complex Building, Morod, Mapusa-Goa. Respondents

Shri Ganesh R. Naik, Advocate for the Petitioners.

Shri Amir Jamadar, Additional Government Advocate for the Respondents.

CORAM : C.V. BHADANG, J.

DATE : 19th JULY 2018

ORAL JUDGMENT:

Heard. Rule made returnable forthwith. The learned Additional Government Advocate, waives service, for the respondents. Heard finally by consent of parties.

2. The petition can be disposed off on a short count. The petitioners are challenging the order dated 06.04.2018, passed by the Mamlatdar of Bardez, whereby, the petitioners and others have been asked to remove the chilly plantation from the land Survey No. 63/7 at Colvale and not to interfere with the said property.

3. It appears that Survey No. 63/7 is an Enemy Property, which is entrusted to the Custodian of Enemy Property. The learned Additional Government Advocate submitted that the impugned order is passed under Section 12 of the Enemy Property Act, 1968 (Act, for short). However, the order does not show that the order is referable to Section 12 of the Act.

4. Be that as it may, the sole contention on behalf of the petitioners is that neither the complaint dated 29.01.2018, nor the copy of the site inspection report dated 05.04.2018, was furnished to the petitioners. It is contended that neither the petitioners were given any show cause notice, nor the petitioners were granted an opportunity of hearing. He submitted that the impugned order is clearly in breach of principles of natural justice.

5. There is nothing on record to show that the petitioners were issued show cause notice or heard before the impugned order was passed. It is also not disputed that the copy of the complaint dated 29.01.2018 and the site inspection report dated 05.04.2018, were not supplied to the petitioners. For the aforesaid reason, the impugned order would be bad, for want of compliance with principles of natural justice.

6. In the result, the petition is partly allowed. The impugned order is hereby set aside. It would be open to the learned Mamlatdar to issue a show cause notice to the petitioners, along with the copy of the complaint and the site inspection report referred above and then pass appropriate orders, after granting opportunity of hearing. It is made clear that this Court has not expressed any opinion on the merits of the rival contentions.

Rule is partly made absolute, in the aforesaid terms, with no order as to costs.

C.V. BHADANG, J.

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