

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.771 OF 2017

Reuben Franco. Petitioner.

Versus.

State of Goa through its
Chef Secretary & others. Respondents.

Mr. Rohit Bras de Sa, Advocate for the Petitioner.

Mr. Pravin Faldessai, Additional Government Advocate for the
Respondents No.1,2, 4 and 5.

Mr. Nikhil Pai, Advocate for Respondent No.3.

Mr. Parikshit Sawant, Advocate for Respondent No.6.

**Coram : N.M. Jamdar &
Prithviraj K. Chavan, JJ.**

Date : 24 July 2018.

P.C.:

By this Petition, the Petitioner has made the following
prayers :

“(A) This Hon'ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order ore direction, directing that the development activities being undertaken by Mr. Michael Lobo, MLA-Calangute Constituency without following due procedure of law/acquiring the land violates Article 300(A) of the Constitution of India be immediately stopped.

(B) This Hon'ble Court be pleased to issue a writ of

mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction, directing an inquiry by the Superintendent of Police-North Goa for the purpose of inquiry whether Mr. Michael Lobo, MLA-Calangute Constituency has used unlawful force (including by carrying a fire arm & fired gun shot) in respect of the incident which occurred on 19/05/2017.

(C) For a writ of declaration or any other appropriate writ, order or direction under Article 226 of the Constitution of India declares that the action on the part of the State Government of depriving the Petitioner of his private property right violates Article 300(A) of the Constitution of India.

(D) This Hon'ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order ore direction to the State not to deprive the Petitioner of his right of private property in respect of property bearing Survey No.175/19 of Calangute Village without following due procedure of law.

(E) This Hon'ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order ore direction declaring that the State of Goa cannot deprive the Petitioner of his right to private property in respect of property bearing Survey No.175/19 of Calangute Village without resorting to due process of law.”

2. As far as first prayer is concerned, the learned Counsel appearing for Respondent No.3-Panchayat and the learned Additional Govt. Advocate state that no work in the property owned by the Petitioner is being carried out by the Respondent-Panchayat or the State Government using the public funds. Even otherwise, if the

public body is seeking to carry out any work in a private property, they will have to follow the due process of law. As regards the Petitioner's property, if the action is being taken by a private individual, the Petitioner has a remedy of approaching the Civil Court.

3. As regards the second prayer regarding direction to hold an inquiry, it is the contention of the Petitioner that the Petitioner's attempts to lodge a First Information Report (FIR) have been unsuccessful as the Authorities have not registered the FIR. He states that in fact a counter FIR has been filed against the Petitioner for which he had to seek an anticipatory bail. If the Authorities are not registering an FIR, the Petitioner, like any other person, always has a remedy in law of approaching the Magistrate, who will take a decision as per law.

4. As regards the other reliefs are concerned, in view of the observations made by us as above in respect of prayer clause (A), the grievance of the Petitioner stands redressed. We have made these observations as this is a settled position of law.

5. With the above observations, the Writ Petition is disposed of.

Prithviraj K. Chavan, J.

N.M. Jamdar, J.