

IN THE HIGH COURT OF BOMBAY AT GOA

**WRIT PETITION NOS. 660, 661, 662, 663, 664
665, 666 & 667 OF 2018**

WRIT PETITION NO. 660 OF 2018

Salim M. G. Shaikh Petitioner
Versus
The State of Goa, Thr. its Chief Secretary
& 3 others Respondents

Shri Anthony Joe D'Silva, Advocate for the Petitioner.

Shri Rajesh Shivolkar, Additional Government Advocate for the
Respondent Nos. 1, 2 and 3.

Shri Virendra R. Parsekar, Advocate for the Respondent No. 4.

WRIT PETITION NO. 661 OF 2018

Salim Sandhi Petitioner
Versus
The State of Goa, Thr. its Chief Secretary
& 3 others Respondents

Shri Anthony Joe D'Silva, Advocate for the Petitioner.

Ms. Neha Kholkar, Additional Government Advocate for the
Respondent Nos. 1, 2 and 3.

Shri Virendra R. Parsekar, Advocate for the Respondent No. 4.

WRIT PETITION NO. 662 OF 2018

Ayub Khan Petitioner
Versus
The State of Goa, Thr. its Chief Secretary
& 3 others Respondents

Shri Anthony Joe D'Silva, Advocate for the Petitioner.

Shri Arun Talaulikar, Additional Government Advocate for the
Respondent Nos. 1, 2 and 3.

Shri Virendra R. Parsekar, Advocate for the Respondent No. 4.

WRIT PETITION NO. 663 OF 2018

Khurshidahmad Tergaon Petitioner

Versus

The State of Goa, Thr. its Chief Secretary
& 3 others Respondents

Shri Anthony Joe D'Silva, Advocate for the Petitioner.

Ms. Priyanka Kamat, Additional Government Advocate for the
Respondent Nos. 1, 2 and 3.

Shri Virendra R. Parsekar, Advocate for the Respondent No. 4.

WRIT PETITION NO. 664 OF 2018

Mehmood A. Ansari Petitioner

Versus

The State of Goa, Thr. its Chief Secretary
& 3 others Respondents

Shri Anthony Joe D'Silva, Advocate for the Petitioner.

Ms. Susan Linhares, Additional Government Advocate for the
Respondent Nos. 1, 2 and 3.

Shri Virendra R. Parsekar, Advocate for the Respondent No. 4.

WRIT PETITION NO. 665 OF 2018

Pramod Pandurang Shinde Petitioner

Versus

The State of Goa, Thr. its Chief Secretary
& 3 others Respondents

Shri Anthony Joe D'Silva, Advocate for the Petitioner.

Shri Arun Talaulikar, Additional Government Advocate for the
Respondent Nos. 1, 2 and 3.

Shri Virendra R. Parsekar, Advocate for the Respondent No. 4.

WRIT PETITION NO. 666 OF 2018

Dadapir Lohar Petitioner

Versus

The State of Goa, Thr. its Chief Secretary
& 3 others Respondents

Shri Anthony Joe D'Silva, Advocate for the Petitioner.

Shri Rajesh Shivolkar, Additional Government Advocate for the
Respondent Nos. 1, 2 and 3.

Shri Virendra R. Parsekar, Advocate for the Respondent No. 4.

WRIT PETITION NO. 667 OF 2018

Munna Bepari (Dec.) Thr. LRs. Petitioner

Versus

The State of Goa, Thr. its Chief Secretary
& 3 others Respondents

Shri Anthony Joe D'Silva, Advocate for the Petitioner.

Shri Vishwadh Sardessai, Additional Government Advocate for
the Respondent Nos. 1, 2 and 3.

Shri Virendra R. Parsekar, Advocate for the Respondent No. 4.

CORAM : C.V. BHADANG, J.

DATE : 8th AUGUST 2018

ORAL ORDER:

All these petitions involve a common and connected question and as such, they are being disposed off by this common order.

2. The petitioner, in each of the petitions, have filed separate civil suits against the respondents, for declaration and

permanent injunction, in which, an application for amendment of plaint came to be filed.

3. By the impugned order dated 18.06.2011, the entire proposed amendment, except the addition of the following prayer clause (f) has been allowed:

“(f) by way of appropriate judgment and decree direct the defendant no. 2 to consider the case of the plaintiff for regularisation in terms of Article 372-A of the amended Code of Comunidades and consequently direct the defendant no. 2 to regularize the suit structure of the plaintiff, if in case, this court comes to the conclusion that the suit structure of the plaintiff is unauthorized.”

In other words, the learned Trial Court has disallowed the amendment to incorporate para (f), as above, in the prayer clause. Feeling aggrieved, these petitions are filed.

4. The learned Counsel for the petitioner, in all fairness, submits that the petitioner cannot pray for direction to the respondent no. 2, to regularise the structure. However, it is contended that the Civil Court, in an appropriate case, can direct the respondent no. 2 to decide the regularisation application, as expeditiously as possible and in a time bound

manner.

5. By the impugned orders, the learned Trial Court has refused to permit the amendment, by addition of prayer clause (f) holding that the Civil Court cannot interfere with the discretion vested in the defendant no. 2 to decide the application for regularisation.

6. It is evident that the petitioner cannot seek a direction to the respondent no. 2, to allow the application for regularisation, which is essentially to be decided by the respondent no. 2, in accordance with law. In any event, in my considered view, it would not be open to the learned District Judge to impinge on the power of the respondent no. 2 in deciding the application for regularisation, in accordance with law. The impugned order does not suffer from any infirmity, so as to require interference in the exercise of the supervisory jurisdiction of this Court.

7. At this stage, the learned Counsel for the petitioner submits that the petitioners will pursue the matter with the respondent no. 2, Collector, for regularisation of the subject structures.

The learned Additional Government Advocate appearing for the respondent nos. 1, 2 and 3, on instructions, submits that if, the petitioner approaches the respondent no.2-Collector, the respondent no. 2-Collector, shall decide the application for regularisation in accordance with law. Subject to this, the Writ Petitions are dismissed, with no order as to costs.

C. V. BHADANG, J.

EV