

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.891 OF 2018

1. Altaf Babalal Chowdhry, age 36 years,
married, service, son of
Babalal Chowdhry.

2. Mukhtar Babalal Chowdhry,
age 34 years, unmarried, son of
Babalal Chowdhry, both resident of
Ganeshpuri, Housing Board,
Mapusa, Bardez, Goa,
both through their duly appointed
Power of Attorney
Amjad Hussein Katvelia,
age 43 years, married, business,
resident of Plot No.E-111,
Ganeshpuri, Mapusa, Bardez, Goa.

..... Petitioners.

Versus

1. State of Goa,
through Chief Secretary,
Government of Goa,
Porvorim, Bardez, Goa.

2. Chief Conservator of Forests,
Office of Chief of Conservator of Forests,
Gomantak Maratha Samaj Building,
Panaji, Goa.

3. Dy. Conservator of Forest,
North Goa Division,

Ponda, Goa.

4. Collector of North Goa,
Office of Collector,
Panaji, Goa

5. Dy. Collector of North Goa,
Office of Collector,
Panaji, Goa.

..... Respondents.

Mr. Iftikhar Agha, Advocate for the Petitioners.

Mr. Dattaprasad Lawande, Advocate General with Mr. Pradosh Dangui, Government Advocate for the Respondents.

***Coram : R.M. Borde, &
Prithviraj K. Chavan, JJ.***

Date : 26 November 2018.

ORAL JUDGMENT : (Per R.M. BORDE, J.)

Heard. Rule. With the consent of the parties, taken up for final disposal at the admission stage.

2. The Petitioners are praying for issuance of a writ of certiorari or in the nature of certiorari for quashing and setting aside the communication dated 20 February 2018 whereunder the request made by the Petitioners for conversion of the use of the land from

agricultural to non-agricultural purpose in respect of the land surveyed under P.T. Sheet/Chalta No.44/12 of Village Mapusa of Bardez taluka has been rejected. The reasons for rejection recorded in the Order are that the area is not a Government forest and does not form part of any compartment of North Goa Division Working Plan and secondly, the P.T. Sheet/Chalta No.44 is figuring in the list of survey numbers identified as Private Forest as per the report of the State Level Expert Committee headed by Dr. Karapurkar.

3. The learned Counsel appearing for the Petitioners has invited our attention to the relevant part of the report of the State Level Expert Committee headed by Dr. Karapurkar. It has been pointed out that so far as the property forming part of P.T. Sheet No.44 is concerned, the same is not considered as a part forest. In the remarks column, it is recorded as block comprising of P.T. Sheet Nos. 47, 48, 65 and 66 of the concerned Village only forms part of the forest area.

4. So far as the survey number with which the Petitioners are concerned, is P.T. Sheet No.44, it is held to be non-forest area and it is not identified in the report as a part-forest. The reasons recorded by the Assistant Conservator of Forests, North Goa Division, Ponda, Goa for rejecting the request of the Petitioners for issuance of the No

Objection Certificate are without any application of mind to the relevant record. There does not appear to be any serious controversy as regards the above referred contention raised by the Petitioners.

5. In this view of the matter, the Petition deserves to be allowed and the same is allowed. The order impugned in the Petition dated 20 February 2018, passed by the Assistant Conservator of Forests, North Goa Division, Ponda, Goa is quashed and set aside and the concerned Authority is directed to issue the NOC on consideration of the application tendered by the Petitioners, forthwith.

6. Rule is accordingly made absolute. There shall be no order as to costs.

Prithviraj K. Chavan, J.

R.M. Borde, J.