

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.1007 OF 2017

1. Vianaar Homes Pvt. Ltd.
Having its office at 201, Gera's Imperium I,
Patto, Panaji, Goa 403 001,
through its POA Holder
Ms. Akshaya Satardekar,
aged 29 years, Indian National,
resident of 270/3, Livramenth Vaddo,
Sangolda, Bardez, Goa
authorised vide Power of Attorney
dated 22/04/2016.

2. Mr. Varun Nagpal,
son of Vijay Kumar Nagpal,
aged 34 years, Indian National,
having Office at 201, Gera's Imperium I,
Patto, Panaji, Goa 403 001.

..... Petitioners.

V/s

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

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

3) Dy. Conservator of Forests,
North Goa Division, Ponda, Goa

4) Asst. Conservator of Forests,
North Goa Division,
Ponda, Goa.

5) Collector of North Goa,
Office of Collector,
Panaji, Goa

6) Dy. Collector of North Goa,
Office of Collector,
Panaji, Goa.

Mr. Shivan Desai, Advocate for the petitioner.

Ms. Purna Bhandari, AGA for respondent nos. 1 to 6.

***Coram : Shantanu S. Kemkar &
Nutan D. Sardesai, JJ.***

Dated : 13th February, 2018

ORAL JUDGMENT : (Per Shantanu S. Kemkar, J.)

Parties through their counsel. Rule. Rule is made returnable forthwith. Heard by consent.

2. By filing this petition under article 226 of the Constitution of India, the petitioner is seeking the following reliefs :

(a) This Hon'ble Court be pleased to issue a writ of certiorari or in the nature of certiorari or any other appropriate writ direction or order, quashing and setting

aside the Impugned Communications dated 14/06/2017 and impugned order dated 30/06/2017.

(b) Writ of mandamus or in the nature of mandamus or any other appropriate writ, direction or order commanding Respondent nos. 2 and/or 3 to grant NOC for conversion of their subject plots under section 32 of Goa Daman and Diu Land Revenue Code 1968 in pursuance to application of the Petitioner no. 1 dated 28/06/2016.

(c) Writ of mandamus or in the nature of mandamus or any other appropriate writ, direction or order commanding respondent nos.5 and/or 6 to consider the application for conversion dated 28/06/2016 as expeditiously as possible.

3. On 30/01/2018, this Court passed the following Order:

“After arguing the matter for sometime, on the basis of the consensus arrived at between the parties, the learned Advocate General submits that the petitioners' land in question, including the plots as mentioned in amendment, will be inspected by a team of Forest Department and appropriate report will be submitted before the next date of hearing.

2. The learned Counsel for the petitioners submits that a date for inspection may be fixed, so that the petitioners can also remain present at the time of

inspection of the plots in question.

3. As agreed, the petitioners and the inspecting team to remain present at the site in question on 7th February, 2018 at 11.00 a.m.. The Officials of the Forest Department shall inspect the land and the plots in question and submit a report in regard to the prayers made by the petitioners in this petition.

4. While making the inspection and submitting the report, the Officials of the Forest Department shall keep in mind the observations made by this Court in Writ Petition No.382/2010 decided on 2nd May, 2013.

5. The report to be submitted on or before 12th February, 2018.

6. List on 13th February, 2018.”

4. In pursuance of the said order, a report has been submitted by the learned Additional Government Advocate. In support of it, an affidavit has been filed by respondent no. 3 Deputy Conservator of Forests, North Goa Division, Ponda Goa.

5. Having gone through the said affidavit and the inspection report filed along with it, we find that the dispute involved in this petition is squarely covered by Division Bench judgments of this court firstly in the case of *Smt. Iris D'Mello Versus State of Goa* in Writ Petition No.382 of 2010 and connected

matters decided on 2nd May, 2013 and in the case of *Shri Vithal Balkrishna Thakur Vs. State of Goa* in Writ Petition No.534 of 2013 decided on 4th December, 2013.

6. In view of the aforesaid, for the reasons stated in the aforesaid judgments and in view of the inspection report, we are of the considered view that the petition deserves to be allowed by setting aside the impugned communications and impugned orders.

7. Accordingly, we set aside the impugned communications and the orders by directing the respondents to decide the applications filed by the petitioners for conversion of their properties, viz. the Plots bearing P.T. Sheet No10 of Chalta Nos. 21-P, 21-Q, 21-S, 21-R, 21-O, 21-T, 21-I, 21-J, 21-K, 21-L, 21-M, 21-N, 21-G, 21-H, 21-V and 21-U of P.T. Sheet No. 10 of Mapusa City, considering that the same are not parts of the private forest and in accordance with law.

8. Rule is made absolute in the aforesaid terms.

Nutan D. Sardesai, J.

Shantanu S. Kemkar, J.