

Assumpta

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.77 OF 2019

Shri. Ashok Lumo Naik,
son of Lumo Honu Naik,
aged 62 years, Indian National,
resident of House No.398,
Neura-O-Pegueno,
Neura-O-Pegueno, VIL Neura-O-
Pegueno, Taluka Tiswadi,
District North-Goa – 403 104.

.... Petitioner

V/s.

1. Mamlatdar of Tiswadi,
Government of Goa,
having Office at the
Collectorate Building,
Ground Floor, Panaji-Goa.
2. The Director,
Agriculture Department,
Government of Goa,
having Office at Krishi
Bhavan, Tonca,
Caranzalem – Goa.
3. Neura-O-Grande Tenants
Association, through its Manager,
having Office at Neura,
Tiswadi – Goa.

4. State of Goa,
through its Chief Secretary,
having Office at Secretariat,
Porvorim - Goa.

.... Respondents

Mr. Parikshit S. Sawant, Advocate for the Petitioner.

Ms. Susan Linhares, Additional Government Advocate for the Respondents no.1, 2 and 4.

Ms. A. Bhat, Advocate for the Respondent no.3.

**Coram : M. S. SONAK &
NUTAN D. SARDESSAI, JJ.**

Date : 19th August, 2019.

Oral Judgment: (Per M.S. Sonak, J.)

Heard Mr. Parikshit Sawant, the learned Counsel for the petitioner. Ms. Susan Linhares, the learned Additional Government Advocate, appears for the respondents no.1, 2 and 4. Ms. A. Bhat, the learned Counsel, appears for the respondent no.3.

2. Rule. Rule is made returnable with the consent and at the request of the learned Counsel for the parties.

3. Even otherwise by our Order dated 26th June, 2019, we

had made it clear that this petition would be disposed of at the time of admission.

4. The petitioner claims to be an agricultural tenant of the property bearing Survey no.3/9 of the Village Neura-O-Pegueno, Tiswadi Taluka. The grievance of the petitioner is that the respondent no.3 – Neura-O-Grande Tenants Association, which is duty bound to maintain the bund and the sluice gate, has failed to do so. The petitioner complains that as a result the agricultural field possessed by him is being inundated with saline water rendering it unfit for cultivation.

5. The petitioner, in furtherance of the aforesaid complaint had therefore sought for Mandamus to the respondents no.1, 2 and 4 to refrain handing over the management or operation of the sluice gate and the bund of Neura-O-Grande Tenants Association, to the respondent no.3 Association until the work of reconstruction of the sluice gate and the bund is completed in all respect. The petitioner, has placed on record the Order dated 15.2.2018 for reconstruction of the sluice gate and strengthening of the bund belonging to Neura-O-Grande Tenants Association. The apprehension of the petitioner was that if the new Managing Committee of the tenants association takes over, such takeover would hamper the execution of the order for

reconstruction of the sluice gate and the strengthening of the bunds.

6. During the pendency of the petition, a new Managing Committee of the Association has already taken charge. The New Managing Committee was elected through the new democratic process. Based upon the apprehension expressed by the petitioner there was no question of restraining the validly elected committee of taking over the charge of the Association and to that extent, the relief prayed for by the petitioner was not required to be granted.

7. However, insofar as the petitioner's anxiety that the reconstruction and the strengthening work which is already ordered should be completed is concerned, the same deserves to be considered. Looking to the orders dated 15.2.2018 and 16.2.2018 which have been placed on record by the petitioner, it is clear that the State Government is itself undertaking the work of reconstruction of the sluice gate and strengthening of the bunds, no doubt by appointing the Contractor. The Contractor has been granted 520 days to complete the work excluding monsoon. The work is actually going on at the site. According to us, it is necessary that this work proceeds unhampered so that this issue of inundation of fields not only in respect of the petitioner's field but also fields of the other alleged tenants is sorted out on a long terms basis.

8. Even Mr. Ganesh Naik, the Vice Chairman of the respondent no.3, who has filed his Affidavit-in-Reply in this petition does not dispute that the reconstruction and repairs of the sluice gates and the bund has to continue and be completed. The Affidavit denies all the allegations made against the respondent no.3 and points out that even the respondent no.3 has taken steps to see that the sluice gate is reconstructed and the bunds are strengthened.

9. Accordingly, we direct the respondents to ensure that works continue according to works order and the reconstruction of the sluice gate and the reconstruction of the bunds is completed as expeditiously as possible. According to us, this direction takes care of the apprehension expressed by the petitioner.

10. Mr. P. Sawant now states that the respondent no.3 should not be allowed to hold an auction of the sluice gate, as otherwise the work of reconstruction and strengthening will again be effected. Ms. A. Bhat, the learned Counsel for the respondent no.3 has resisted this relief. We also find that there is no such relief applied for in the petition. In any case, Ms. Bhat, the learned Counsel, points out that the respondent no.3 in his Affidavit has stated due to illegal activities carried out at the sluice gates, which is the body of farmers and cultivating paddy fields and managing their day to day living, are

incurring heavy losses of more than Rupees 20 to 25 lakhs annually. The respondent no.3 will take care to see that the field of the petitioner as also the other fields will not be damaged due to fishing activities at the sluice gate and bund of the respondent no.3. According to us, this statement is quite sufficient to even take care of these allegations of the petitioner.

11. We accordingly dispose of the petition with direction that the work of the sluice gate and the strengthening of the bunds should continue and be completed in accordance with the work orders dated 15.2.2018 and 16.2.2018 which are placed on record in this matter.

12. Rule is disposed of in the aforesaid terms. There shall be no order as to costs.

13. All concerned to act on the basis of an authenticated copy of the Order.

NUTAN D. SARDESSAI, J. M. S. SONAK, J.

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