

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 93/2019

Shri Uday Gopalkrishna Tengse,
Son of Gopalkrishna Tengse,
aged 54 years,
Occupation Agriculture,
Residing at House No.845,
Wellwada, Poinguinim,
Canacona, Goa, 403 702.

... Petitioner

Vs.

1. State, through its
Chief Secretary, having its
office at Secretariat,
Porvorim, Goa.
2. The Deputy Collector &
Sub Divisional Magistrate,
Office of the Deputy Collector,
Canacona Administrative Complex,
Choaudi, Canacona, Goa.
3. The Police Inspector,
Canacona Police Station,
Canacona, Goa 403702.
4. Shri Laxman Prabhu Gaonkar,
Son of late Anant Prabhu Gaonkar,
aged 61 years, occupation Agriculture,

Residing at House No. 844,
Wellwada, Poinguinim,
Canacona, Goa 403702.

... Respondents

Mr. Shashikant Joshi with Ms. Archana Pai Bir, Advocates for the
Petitioner.

Mr. Pravin Faldessai, Addl. Public Prosecutor holding for Mr.
S.R.Rivankar, Public Prosecutor for Respondent Nos. 1 to 3.

Mr. D. Vernekar, Advocate for Respondent No.4.

***Coram : R. D. Dhanuka &
Prithviraj K. Chavan, JJ.***

Date : 15th April, 2019.

Oral Judgment (R. D. Dhanuka, J)

Rule.

2. Mr. Pravin Faldessai, learned Additional Public Prosecutor
waives service on behalf of respondent Nos. 1, 2 and 3.

3. By consent, petition is heard finally.

4. By this petition, the petitioner seeks a writ of mandamus
directing the Deputy Collector and Sub-Divisional Magistrate to take

immediate action and ensure removal of the gate installed by respondent No. 4, on the public road. The learned Counsel for the respondent no. 4 states that the road in question is not a public road. The learned Counsel for the petitioner disputes this statement made by the learned counsel for the respondent No.4.

4. Mr. Faldessai, the learned Government Counsel on instructions states that the PWD has been maintaining this road for the last 30 years. The learned Counsel for the petitioner disputes this statement made by the learned Addl. Government Advocate. The learned counsel appearing for the petitioner states that he will put up a lock on the said gate and would hand over one of the key thereof to the learned Counsel for respondent No. 4, during the course of the day. The learned Counsel for the respondent No. 4 has no objection if a lock is put by the petitioner on the gate. Both parties have agreed that after using the said gate, they will put the lock on the gate and will not hand over their respective keys, to any third party. Statement is accepted.

5. In view of the arrangement arrived at between the parties, this Court does not propose to delve into the issue as to whether, this road is private or public road. This issue is kept open.

6. Rule is allowed on the aforesaid terms. Parties to act on the authenticated copy of this order.

7. It is made clear that, this arrangement arrived at before this Court, is only between the petitioner and respondent No. 4.

PRITHVIRAJ K. CHAVAN, J.

R. D. DHANUKA, J.