

IN THE HIGH COURT OF BOMBAY AT GOA.**WRIT PETITION NO.1160 OF 2018.**

Mr. Paresh Pai, Son of late Madeva
Pai, Aged 49 years, Indian
National, r/o House NO.B-10,
Heritage Symphony Building, Opp.
Syndicate Bank, Caranzalem, Petitioner.
Tiswadi, Goa.

Versus

- 1 Additional Collector -I,
Collectorate of North Goa
Tiswadi - Panaji Goa.
- 2 The Collector Collectorate of
North Goa Tiswadi- Panaji Respondents.
Goa.

Mr. V. Amonkar, Advocate for the petitioner.
Ms. S. Linhares, Additional Government Advocate for the
respondents.

**Coram:- M. S. Sonak &
Prithviraj K. Chavan, JJ.**

Date:- 15th January, 2019.

ORAL JUDGMENT (Per M. S. Sonak, J.)

Heard Mr. V. Amonkar, learned Counsel appearing
for the petitioner and Ms. S. Linhares, learned Additional
Government Advocate appearing for the respondents.

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

forthwith.

3. The challenge in this petition is to the order dated 6.11.2017 made by the Collector (Respondent no.2) rejecting the petitioner's application seeking review of order dated 10.10.2013 made by the Additional Collector (I) (Respondent no.1).

4. The petitioner, aggrieved by order dated 10.10.2013 made by the Additional Collector(I) claims to have instituted review petition on 7.11.2013. Mr. Amonkar points out that under Section 193 of the Goa Land Revenue Code 1968 ("said Code" for short) powers of review are vested in Revenue Officer. Application for review was required to be decided by the Additional Collector(I). However, application for review has been decided by the Collector (Respondent no.2) and that too after impleading Additional Collector(I) as a respondent and requiring Additional Collector(I) to file a reply to defend order dated 10.10.2013. Mr. Amonkar, submits that this is not a correct manner of disposing of the review application.

5. Ms. S. Linhares, learned Addl. Govt. Advocate submits that power of grant or refuse conversion is basically vested in Collector. She submits that there are some delegations of power in favour of Additional Collector(I) as well. She submits that provision of the Code clearly permits such delegations. She, therefore, submits that there is no error in the Collector disposing of review application.

6. There is no difficulty in excepting Ms. S. Linhares contention as regards delegation of powers. However, if order is made by the Additional Collector(I) in pursuance of the delegation of power, then ordinarily, review application has to be disposed of by Additional Collector(I) unless, Additional Collector(I) is unavailable for deciding such review application. In fact, concept of review is that same officer is required to reconsider the order originally made. This is not a case where Additional Collector(I) was not available or otherwise not in a position to entertain the application for review. In fact, Additional Collector(I) has filed a reply before the Collector opposing the review.

7. For the aforesaid reasons, the impugned order

made by the Collector is required to be set aside and is hereby set aside.

8. Mr. V. Amonkar, learned Counsel for the petitioner expressly states that the petitioner has no objection whatsoever, if the Additional Collector(I) now decides the review application. This statement is recorded, particularly because Additional Collector(I) had earlier filed reply opposing review application.

9. Now that the impugned order is set aside, the Additional Collector(I) is directed to decide the petitioner's review application on its own merits and in accordance with law without being influenced by the proceedings/reply filed earlier. It is made clear that all contentions including the contention as to whether review was filed within prescribed period of limitation or not are kept open for adjudication by the Additional Collector(I). It is made clear that this court has not at all adjudicated to the merits of the review application and, therefore, it will be for the Additional Collector(I) to hear and decide the review application on its own merits and in accordance with law.

10. Petitioner to appear before the Additional Collector(I) on 28.1.2019 at 3.30p.m and produce authenticated copy of this order. The Additional Collector(I) may then fix a date for hearing the review application.

11. Rule is made absolute in the the aforesaid terms. There shall be no order as to costs.

12. All concerned to act on the duly authenticated copy of this order.

PRITHVIRAJ K. CHAVAN,J.

M. S. SONAK, J.