

IN THE HIGH COURT OF BOMBAY AT GOA.**WRIT PETITION NO. 634 OF 2018.**

- 1 Sampal Cantor Tenant Association, A Tenants Association registered with the Mamlatdar of Bardez and having its office at Salvador de Mund, Bardez Taluka Goa Represented herein by its Chairman Shri Subhash Bhiku Naik, Son of Bhiku Naik, 68 years of age, agriculturist, Resident of House No.106, Salvador de Mund, Bardez Goa.
- 2 Smt. Bhagirathi Bapu Chodankar w/o Bapu Chodankar, 81 years of age, housewife, r/o House No.385, Virlosa, Penha de Fanca Goa.
- 3 Shri Raviraj Rajanikant Shet Son of Rajanikant Shet, 51 years of age, business, Resident of 92, St. Dumin Wado, Penha de Franca Goa.
- 4 Shri Raghuvir Bhagu Naik, Son of Bhagu Naik, Major of age, agriculturist, Resident of house no.516, Gangus Salvador de Mund Bardez Taluka Goa. Petitioners.

Versus

- 1 Mamlatdar of Bardez Taluka, Having its office at Mamlatdar Building, Mapusa Bardez Goa.

- 2 Santosh Tatu (Agapurkar) Gaude
s/o Tatu Govind Gaude, major of
age, Retired, r/o. H. No.197,
Salvador Do Mundo Badem,
Bardez Goa.
 - 3 Mr. Jaihind(Rama) Janu Naik,
S/o Janu Naik, Major of age,
Self employed, r/o H. No. 606,
Badem, Salvador Do Mundo
Bardez Goa.
 - 4 Samir Nanda Halarnkar, s/o
Nanda Shankar Halarnkar, major
of Age, Service, R/o.
Halarnwada, Ecoxim Bardez
Goa.
 - 5 Gautam B. Volvoikar, S/o Babai
Narayan Volvoikar, Major of age,
Service, R/o. H. No.471
Chodanwada, Salvador do
mundo Bardez Goa.
 - 6 Bhima B. Madkaikar, Son of
Bhanu Madkaikar, Major of age,
r/o Salvador do mundo Bardez
Goa.
 - 7 Vilas Shriram Naik S/o Shriram
Naik, Major of age, r/o Near
Maruti Temple, Anganwadi,
Virlosa, Penha De France,
Britona Bardez Goa.
- Respondents.

Mr. A. Naik, Advocate for the petitioners.

Mr. P. Faldessai, Additional Government Advocate for the
respondent no.1.

Mr. D. Gaonkar, Advocate for the respondent no.2 to 7.

**Coram:- M. S. Sonak &
Prithviraj K. Chavan, JJ.
Date:- 23rd January, 2019.**

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

Heard learned counsel for the parties.

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

3. Though, several reliefs have been prayed in this petition, the main relief is that no elections have been held to the Sampal Cantor Tenant Association, even though, the term of earlier managing committee expired some time in the year 2013.

4. Petitioner also objects to the appointment of an Ad-hoc committee by the Mamlatdar and contends that previous managing committee should be allowed to function until elections are held.

5. Since, there is no dispute whatsoever that term of earlier managing committee has expired in the year 2013, there is, obviously no justification for not holding elections in order to elect new managing committee for the association. Accordingly,

we direct respondent no.1 i.e. Mamlatdar of Bardez, Taluka to ensure that elections in accordance with the relevant Rules are held as expeditiously as possible and in any case, on or before 30.3.2019 and thereafter file an affidavit of compliance in this Court.

6. So far as the appointment of the Ad-hoc committee is concerned, the same can continue until elections are held and the new managing committee takes charge. However, if for any reason the new managing committee is unable to take charge by 30.3.2019, then, this Ad-hoc committee will not continue and affairs of the Association will be taken over by the Mamlatdar/Administrator. The Mamlatdar/Administrator should however, not treat this direction as some sort of relaxation in the matter holding elections. It shall be the duty of the Mamlatdar to ensure that elections are held and new managing committee is in a position to take charge by 30.3.2019.

7. The petitioners have serious objection to inclusion of respondent no. 4 Samir Nanda Halarnkar as a member of Ad-hoc committee. The petitioners have alleged that respondent no.4 is not even a member of this association. Mr. D. Gaonkar learned

Counsel appearing for the respondent no.4, however, states that respondent no. 4 has already applied to the managing committee for membership but has not been informed as to whether such membership is granted or not. If this is the position, it is obvious, at least as of today the respondent no. 4 cannot claim to be member of association. In such circumstances, the Mamlatdar/Administrator to replace respondent no. 4 with any other undisputed member of the association. This exercise shall be carried out within one week from today. If at all there is dispute about the membership, then, there can be no difficulty in the Ad-hoc committee functioning without respondent no.4.

8. Ad-hoc committee which is now supposed to continue until elections are held, is restrained from taking any major policy decisions or spending any amounts of the association otherwise than for day to day administrative purposes. Besides, Ad-hoc committee shall maintain scrupulous records of all the expenditure incurred in this interregnum.

9. The learned Counsel for the petitioners submits that charge will be handed over to the Mamlatdar within a period of one week from today and Mamlatdar shall thereafter handover the charge to

the Ad-hoc committee as aforesaid. This statement is accepted.

10. The petitioner shall also furnish accurate accounts to Administrator, within a period of four weeks from today.

11. The grievances of the petitioners in the present petition stands substantially redressed in terms of the aforesaid order.

12. Therefore, rule is made absolute in the aforesaid terms. There shall be no order as to costs.

13. All parties to act on the basis of authenticated copy of this order.

PRITHVIRAJ K. CHAVAN,J.

M. S. SONAK, J.