

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 643 OF 2018

1. Mr. Ganpat Badiger,
Major in age,
R/o H.No.215/50,
Bella Vista Vaddo,
Sangolda, Bardez, Goa. ... Petitioner.

Versus

1. Comunidade of Sangolda,
Represented through its Attorney,
Having Office near Village Panchayat
of Sangolda, Sangolda, Bardez, Goa.
2. The Administrator,
Comunidades of North Zone,
Mapusa, Bardez, Goa.
3. State of Goa,
Through its chief Secretary,
Having its office at
Alto Porvorim, Bardez, Goa.
4. The Collector,
Having its Office at Collectorate
Building, North Goa,
Panaji, Goa.

5. The Deputy Collector,
Having its Office at
Collectorate Building,
North Goa, Panaji, Goa.

... Respondents

Ms. Ankita Kamat, Advocate for the Petitioner.

Mr. Johann Fernandes with Mr. Jose Filipe Melo, Advocates for
Respondent No.1.

Ms. Priyanka Kamat, Addl. Government Advocate for the Respondent
Nos. 2, 3 & 4.

WITH

WRIT PETITION NO. 644 OF 2018

1. R. Anthony Samy Gaunder
Major in age,
Resident of H.No.215/34 (old),
215/34(A) (New),
Bella Vista Vaddo,
Sangolda, Bardez, Goa.

... Petitioner.

Versus

1. Comunidade of Sangolda,
Represented through its Attorney,
Having Office near Village Panchayat
of Sangolda, Sangolda, Bardez, Goa.

2. The Administrator,
Comunidades of North Zone,
Mapusa, Bardez, Goa.

3. State of Goa,
Through its chief Secretary,
Having its office at
Alto Porvorim, Bardez, Goa.

4. The Collector,
Having its Office at Collectorate
Building, North Goa,
Panaji, Goa.

5. The Deputy Collector,
Having its Office at
Collectorate Building,
North Goa, Panaji, Goa.

... Respondents

Ms. Ankita Kamat, Advocate for the Petitioner.

Mr. Johann Fernandes with Mr. Jose Filipe Melo, Advocates for
Respondent No.1.

Mr. A. Jamadar, Addl. Government Advocate for the Respondent Nos.
2, 3 & 4.

WITH

WRIT PETITION NO. 1110 OF 2018

1. Mrs. Pooja Prakash Hoble
Major of age,
r/o H.No. 207/1,
Bella Vista Vaddo,
Sangolda, Bardez, Goa. ... Petitioner.

Versus

1. State of Goa,
Through Chief Secretary,
Secretariat, Porvorim, Goa.
2. The Collector,
North Goa Collectorate Building,
Panaji, Goa.
3. Dy. Collector and Sub-Divisional
Magistrate, Mapusa, Bardez, Goa.
4. Dy. Collector and Sub-Divisional
Magistrate North Goa,
Incharge of Demolition Squad,
office at Panjim, Tiswadi, Goa.
5. The Administrator,
Comunidades of North Zone,
Mapusa, Bardez, Goa.
6. The Attorney,
Comunidade of Sangolda,
Sangolda, Bardez, Goa. ... Respondents

Mr. Joaquim Godinho, Advocate for the Petitioner.

Ms. Priyanka Kamat, Addl. Government Advocate for the Respondent Nos. 1 to 4.

Mr. Johann Fernandes with Mr. Jose Filipe Melo, Advocates for Respondent No.6.

WITH
WRIT PETITION NO. 1114 OF 2018

1. R.A. Jebanesam,
W/o late Roche Anthony,
Major in age, Housewife,
r/o H.No.201(Old) and
215/7 (new),
Bella Vista Vaddo,
Sangolda, Bardez, Goa. ... Petitioner.

Versus

1. State of Goa,
Through Chief Secretary,
Secretariat, Porvorim, Goa.
2. The Collector,
North Goa Collectorate Building,
Panaji, Goa.
3. Dy. Collector and Sub-Divisional
Magistrate, Mapusa, Bardez, Goa.

4. Dy. Collector and Sub-Divisional
Magistrate North Goa,
Incharge of Demolition Squad,
office at Panjim, Tiswadi, Goa.

5. The Administrator,
Comunidades of North Zone,
Mapusa, Bardez, Goa.

6. The Attorney,
Comunidade of Sangolda,
Sangolda, Bardez, Goa.

... Respondents

Mr. Joaquim Godinho, Advocate for the Petitioner.

Ms. Neha Kholkar, Addl. Government Advocate for the Respondent
Nos. 1 to 5.

Mr. Johann Fernandes with Mr. Jose Filipe Melo, Advocates for
Respondent No.6.

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

Date : 26th March 2019.

ORAL JUDGMENT (Per R.D.Dhanuka, J)

Rule.

2. Learned Counsel for the respondents waives service. Respondents have not taken progressive steps against the petitioners. Learned Counsel appearing for the Administrator of Comunidade of North Zone, Mapusa, Bardez Goa and attorney for respondents in these petitions raised an issue of maintainability of writ petitions on the ground that the appeal is provided under Article 397 of the Code of Comunidades against the impugned orders passed by the Comunidades.

3. The learned Counsel for the respondents in group of petitions states that the respondents shall not raise any issue of limitation if appeals are filed within two weeks from today. Statement is accepted. The petitioners undertake to file appeal under Article 397 of the Code of Comunidade before the appellate authority within two weeks from today. Undertaking is accepted.

4. A copy of the appeal memo along with other relevant papers and proceedings filed along with appeal memo shall be served upon the respondents within one week from the date of filing appeal. The appellate authority shall decide such appeal expeditiously and not later than six months from the date of filing such appeal, after

complying with the procedure prescribed, under the Code of Comunidades and in accordance with law. During the pendency of said appeal, the respondents shall not take any coercive steps against the structures of the petitioners.

5. If any adverse order is passed by the appellate authority against the petitioners in respect of the impugned structures, such order shall not be implemented by the Comunidade for a period of two weeks, from the date of communication of such order.

6. It is made clear that this Court has not considered the other aspects involved in these petitions. All issues on merits are kept open.

7. Rule is made absolute on the aforesaid terms. No order as to costs.

PRITHVIRAJ K. CHAVAN, J.

R. D. DHANUKA, J.