

IN THE HIGH COURT OF BOMBAY AT GOA

PIL WRIT PETITION NO.3 OF 2017

JAGDISH Y. CHOWGULE

.... Petitioners

Versus

MANUEL COLACO (DEC)

THR. LRS. AND OTHERS.

.... Respondents

Mr. Rohit Bras De Sa, Advocate for the Petitioner.

Mr. D. Pangam, Advocate General along with Mr. S. Dhargalkar,
Addl. Government Advocate for the Respondents no.2 and 3.

Coram:- M.S. SONAK &
SMT. M. S. JAWALKAR, JJ.

Date:- 6th January, 2020

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

Heard Mr. Rohit Bras De Sa, learned counsel for the petitioner and Mr. D. Pangam, learned Advocate General along with Mr. S. Dhargalkar, learned Addl. Government Advocate for the respondents no.2 and 3. The legal representatives of respondent no.1 are duly served. In fact, on the earlier occasion, an advocate has appeared on their behalf. Affidavit on behalf of the legal representatives of respondent no.1 is also on record.

2. Rule was already issued in this petition on 18.02.2019 and the matter has now come up for final disposal.

3. The grievance of the petitioners is that the property bearing Survey No.140/1 at Sancoale, admeasuring 5475 sq.mtrs. is in fact a tenanted property which earlier belonged to the Comunidade of Sancoale. It is the case of the petitioners that the legal representatives of respondent no.1 have acquired certain rights in the said property on the basis that they were agricultural tenants thereof. It is also the case of the petitioners that after the legal representatives of respondent no.1 were declared as tenants, they have sold the property to almost 21 parties who have put up certain structures thereon.

4. The petitioners, rely upon the provisions of the Goa Land Use (Regulation) Act, 1991 to submit that notwithstanding anything contained in the Goa, Daman and Diu Town and Country Planning Act, 1974 or in the Land Revenue Code, 1968, no land which is vested in a tenant under the provisions of the Goa Agricultural Tenancy Act, 1964 shall be used or allowed to be used for any purpose other than agriculture. On this basis, the petitioners, seek action against the constructions which have come up in the aforesaid property.

5. Mr. S. Prabhu, Mamlatdar of Mormugao has filed an affidavit in reply in the matter. In paragraphs 7, 8 and 9 of the affidavit in reply

this is what is stated:

“7. I say that total ten check list for converting the land without prior permission in survey No.140/1 of village Sancoale, was filed before the office of Deputy Collector and SDM Mormugao on 11/06/2019. Deputy Collector and SDM Mormugao have already issued show cause notice cum stop work order dated 20/06/2019. These show cause notices were issued prior to the order dated 31/07/2019 passed by this Hon'ble High Court where by this respondent was directed to inspect the site under survey No.140/1 of village Sancoale.

*8. I say that after the inspection done on 07/08/2019, this respondent filed check list on 06/09/2019 to the office of the Deputy Collector and SDM Mormugao in respect of remaining eleven structures out of twenty one structures mentioned in the inspection report dated 07/08/2019. Deputy Collector and SDM Mormugao has thereafter issued show cause notice cum stop work order dated 10/09/2019 to the persons who have constructed the aforesaid eleven structures. Copy of the show cause notice cum stop work order is annexed hereto and the same is marked as **Exhibit-D** Colly. I say that Deputy Collector and SDM Mormugao has thus initiated proceedings under section 33 of Land Revenue Code by issuing the aforesaid show cause notices.*

9. I say that in the aforesaid circumstances if this Hon'ble

High Court issues any further directions to this respondent then this respondent will immediately comply and act upon the same.”

6. To the aforesaid affidavit in reply copies of 21 show cause notices issued to various parties have also been annexed.

7. According to us, this petition can now be disposed of by issuing directions to the Deputy Collector to dispose of all the 21 show cause notices in accordance with law and on their own merits as expeditiously as possible and in any case within a period of 6 months from today. Needless to add that the Deputy Collector will have to comply with the principles of natural justice and fair play while disposing of the show cause notices.

8. We also direct the legal representatives of respondent no.1 as also the persons to whom the show cause notices have been issued to cooperate with the Deputy Collector in the matter of expeditious disposal of the show cause notices in case, such persons, seek unnecessary adjournments or otherwise delay the proceedings, the Deputy Collector, will be at liberty to pass such orders as may be called for in order to comply with our directions of expeditious disposal.

9. Further, by an interim order, we had directed the Mamlatdar of

Mormugao Taluka to ensure that there are no further constructions carried out in the property bearing Survey No.140/1 at Sancoale, since, there was material placed before us that at least prima facie, the provisions of Goa Land Use (Regulation) Act, 1991 are applicable. We therefore, direct that this status quo shall continue until the show cause notices are disposed of by the Deputy Collector in accordance with law.

10. This petition as also the civil applications therein are disposed of in the aforesaid terms. All contentions of all parties are kept open for decision by the Deputy Collector.

11. There shall be no order as to costs. All concerned to act on the basis of an authenticated copy of this Order.

SMT. M. S. JAWALKAR, J.

M. S. SONAK, J.