

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.779 OF 2011

Antonio Vithal Luis,
major, Son of late Joao-Minguel Luis,
Residing at [H.No. 687/3](#), Zalor,
Carmona, Salcette-Goa. Petitioner.

Versus

- 1 (a) Mr. Zeferino F. Vaz
Son of Alberto F. Vaz and his wife
- 1 (b) Mrs. Sara Vaz
- 1(c) Fr. Savio Vaz
son of Alberto F. Vaz
- 1 (d) Ms Regina Vaz,
daughter of Alberto F. Vaz
2. Mrs Veronica Vaz.
3. Alepio Sebastiao Vaz (deceasee)
- 3.(i) Mrs. Olga Odilia Das Nervas Vaz
(deceased)
- (ii) Mr. Avito Vaz
- (iii) Mrs. Elssie Vaz,
- (iv) Mrs. Trashila Vaz,
- (v) Mr. Everson Vaz,
- (vi) Miss Melissa Vaz,
- (vii) Mr. Adrian Vaz,
- (viii) Ms. Cherida Vaz,
- (ix) Mrs. Natasha Vaz,
- (x) Ms. Michelle Vaz,
- (xi) Mr. Daniel Vaz,
- (xii) Ms. Andrea Vaz,
- All residents of House No.74,
Chandvaddo, Varca, Salcete, Goa.
4. Mr. Jose Antonio Vaz (deceased)

(LRs. Already on record at Sr. No.1(a) to 13).

5. Mr. Teonio Romando Vaz

5 (a) Mrs. Hilda Vaz, wife of
late Teonio Romaldo Vaz,
major of age,

5(b) Mr. Richard Vaz,
Son of late Teonio Romaldo Vaz,
major of age,

5(c). Mrs. Meena Vaz,
Wife of Richard Vaz, major of age,

5(d). Mrs. Sharon Vaz,
Daughter of late Teonio Romaldo Vaz
Major of age,

5(e) Mr. Derrick Texeira,
husband of Sharon Vaz,
Major of age,

5(f) Sandra Vaz,
Daughter of late Teonio Romaldo Vaz,
major of age,

5(g) Mr. Yusuf,
husband of Sandra Vaz,
Major of age,
All resident of 178 Boswell Drive,
Conventry CV22GU UK.

(amendment carried out as per order
dated 7/7/2016 passed in MCA NO.517/16)

6. Reginaldo Joao Vaz (deceased)

6(a) Mrs. Lauriana B. Vaz
wife of late Reginaldo Joao Vaz,
major of age, resident of 10
Boswood Court, Ede Close,
Hounslow TW33EY, UK.

6(b) Mr. Agnelo J. Vaz,
s/o late Reginaldo Joao Vaz,
major of age,

6(c) Mrs. Jennifer Vaz,
 w/o Mr. Agnelo J. Vaz,
 major of age,
 Both resident of 8,
 Warthing Road, Hounslow
 TW 50 ER, UK.

7. Elentheria Ditoso Souza e Vaz (deceased)

8. Mr. Alfred Innocencia Vaz,

9. Ms Maria Minguelina A. Vaz (deceased)

10. Mr. Ronald G. Vaz,

11. Mr. Rui Alvaro Vaz,

12. Mr. Leonard Vaz,

13. Mrs. Lydia Vaz.

All residing at House No 74,
 Chandvaddo, Varca, Salcette, Goa

14(a)Mr. Peter Luis,
 son of Late Alexio Luis

14(b)Mr. Inacio Luis,
 son of Late Alexio Luis,

14(c)Mr. Antonio Severino Luis,
 son of Late Alexio Luis,

14(d)Mr. Santano Luis,
 son of Late Alexio Luis,
 All Residing at [H.No. 684](#),
 Zalor, Carmona, Salcette-Goa,

14(e)Mrs. Paulina Luis,
 daughter of Late Alexio Luis
 residing at House No. 722,
 Ascona Pandalpam,

Benaulim, Salcette, Goa,
 14(f)Mrs. Agnes Luis,
 daughter of Late Alexio Luis,
 residing at Olvaddo, Carmona,
 Salcette, Goa

14(g)Mrs. Indarip Luis,

daughter of Late Alexio Luis,
residing at Gavona, Carmona,
Salcette, Goa,

14(h) Miss Victoria Luis,
daughter of late Conceicao Luis
(late daughter of Alexio Luis)

14(i) Miss Sharmila Luis,
daughter of late Conceicao Luis
(late daughter of Alexio Luis)

14(j) Miss Venika Luis,
daughter of late Conceicao Luis
(late daughter of Alexio Luis)
residing at Gavona, Carmona, Salcette, Goa.

15. Essisso Santano Fernandes,
residing at House No. 74,
Chadvaddo, Varca, Salcette, Goa.

..... Respondents.

Mr. Valmiki Meneses, Advocate for the Petitioner.

Coram : M.S. Sonak, J.

Dated : 29th January, 2021.

P.C.:-

Heard Mr. Valmiki Menzes for the Petitioner.

2. The records indicate that the service is complete upon all the respondents.

3. The challenge in this petition is to the order dated 14th June, 2011, by which the Administrative Tribunal (Tribunal) has refused to condone the delay in institution of an appeal under the

Land Revenue Code.

4. On perusal of the impugned order, it appears that the petitioner's application for condonation of delay was dismissed even before the respondents could file any response to the said application and contest the factual averments made by the petitioner in the application seeking condonation of delay. The application seeking condonation of delay was backed by an affidavit, sworn by the petitioner-Antonio Vithal Luis. Therefore, at least, ordinarily unless the factual averments were disputed by the opposite party, the Tribunal may not have been justified in rejecting the application for condonation of delay.

5. Besides, it was pointed out in both, the application for condonation of delay, as well as in the application seeking leave to prefer an appeal that the petitioner was never served in the proceedings which culminated in the Deputy Collector's order dated 19/8/2005 now that the Tribunal has granted the petitioner leave to appeal based on this very averments. There is also record that the father of the petitioner late Joao Minguel Luis had expired some time in the year 1998 and there was no application for bringing on record the LRs, which included the petitioner herein. This aspect does not appear to have been considered by the Tribunal before making the impugned order.

6. In the aforesaid circumstances, the impugned order dated 14th June, 2011, made by the Tribunal is, hereby, set aside and the Tribunal is directed to reconsider the petitioner's application for condonation of delay filed on 27/01/2010. This time, the Tribunal will issue notice to the respondents and decide the application for condonation of delay only after the response is filed, or indicate that they do not wish to file any response to it, or the respondents do not file any response despite grant of opportunity to them.

7. The observations in this order are only *prima facie* and the same need not influence the Tribunal while disposing of the application for condonation of delay, on its own merits and in accordance with law.

8. Rule is made absolute in the aforesaid terms. In the facts and circumstances of the present case, there shall be no order as to costs.

9. The parties to appear before the Tribunal on 1st March, 2021 at 10.30 a.m. However, if the respondents or some of the respondents fail to appear by themselves, or through their Advocate on the said date, the Tribunal to issue notices to them and upon service of such notices, endeavour to dispose of the matter as expeditiously as possible.

10. In this matter, the petitioner took a considerable time to serve the respondents. However, before the Tribunal it is expected that the petitioner takes expeditious steps to effect service upon the respondents or the unserved respondents, so that the proceedings before the Tribunal can be disposed of expeditiously. Mr. Menezes assures this Court that expeditious steps will be taken to effect service upon the respondents.

11. Misc. Civil Applications, if any, are also disposed of.

M.S. Sonak, J.

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