

Andreza

**IN THE HIGH COURT OF BOMBAY AT GOA
PIL WRIT PETITION NO. 64 OF 2019 (FILING)**

1. KASHINATH JAIRAM SHETYE
AND 7 ORS., ...PETITIONERS

Versus

1. STATE OF GOA, THR. CHIEF ...RESPONDENT
SECRETARY AND 3 ORS.,

**Mr. Nigel Da Costa Frias and Ms. Barbara Andrade, Advocate
for the Petitioner.**

**Mr. D. Pangam, Advocate General with Mr. S. P. Munj,
Addl, Government Advocate for the Respondent nos. 1 and 3.**

**CORAM: MANISH PITALE &
SMT. M. S. JAWALKAR, JJ**

DATED: 1st October, 2021

ORAL ORDER

1. By this Writ Petition filed by the Petitioners claiming to be in public interest, the following prayers have been made :

“a) For a Writ of Mandamus or a Writ in the nature of mandamus or any appropriate Writ order or direction to the respondent no. 1 and 4 to terminate the lease agreement dated 12.02.1999 executed between the EDC respondent no.1 and M/s. V. S. Dempo & Co Pvt Ltd respondent no.2

b) For a Writ of Mandamus or writ in the nature of Mandamus or an appropriate Writ order or

direction to the respondent no.1 to take appropriate action to evict the employees, servants purchasers and all other persons illegally occupying plot no 16 of M/s V. S. Dempo & Co Pvt Ltd respondent no. 2 from the said leased premises namely plot no 16 EDC Complex, Patto Panjim Goa and take vacant possession of the plot no.16.

c) For a Writ of Mandamus or writ in the nature of Mandamus or an appropriate Writ order or direction to the respondent no.1 and 4 to take necessary action for reversion of the plot no. 16 and 11 EDC complex, Patto Panjim Goa at and building constructed to it.

d) For an appropriate writ order or direction thereby quashing the illegal sale deed of government leased land dated 14.07.2007 signed by the respondent nos. 2 & 3 and recover the Rs.1,21,82,561/- with interest from respondent no. 2 forthwith.

32. For an interim order thereby directing the respondent no. 1 and 4 to take immediate action reversion of the plot no. 16 and 11 at EDC complex Patto Plaza and the building constructed in the plot and to take vacant possession of the same.”

2. It is claimed that in the present case, by a Deed of Lease dated 12.02.1999, the Respondent no. 4-Goa Economic Development Corporation, demised certain plots of land to the Respondent no.2 for development. There were specific clauses stated in the Deed of Lease subject to which, the developed structures in the constructed premises could be sold or transferred. It is pointed out that by a Deed of Sale dated 14.03.2007, the Respondent no.2 sold some portion of the constructed building on the said land to the Respondent no.1-State in exchange for valuable consideration.

3. It is undisputed that a grievance in this regard was raised for the first time on behalf of the Petitioners by submitting a representation/complaint dated 15.07.2019 addressed to the Respondent-State of Goa as also the Police Authorities and the Collector of North Goa. It was prayed in the said representation/complaint that a First Information Report (FIR) ought to be registered against those responsible for the aforesaid actions on the part of the Respondents for various offences under the Indian Penal Code (IPC) and the Prevention of Corruption Act. A prayer was also made for such an FIR to be investigated by the Central Bureau of Investigation (CBI). The Petitioners also sought certain specific directions for recovery of 50% of the lease value and for cancellation of the leases.

4. Thereafter, the present Writ Petition was filed on 13.11.2019, contending that no action was taken by the authorities on the aforesaid representation/complaint.

5. Mr. Nigel Da Costa Frias, the learned Counsel appearing for the Petitioners, invited attention of this Court to various clauses of the Deed of Lease and, thereafter, by referring to the Sale Deed, he contended that the Sale Deed was executed in violation of certain clauses of the Deed of Lease and that no action was taken in the context of the aforesaid representation/complaint.

6. The Respondent no. 4-Corporation has filed an affidavit in the present Writ Petition. It is pointed out that the prayers in the present Writ Petition cannot be granted as they pertain to the aforesaid Lease Deed executed way back in the year 1999 and in the context of the Sale Deed executed as far back as in the year 2007. It is then pointed out that the grievances sought to be raised by the Petitioners are wholly misplaced because what is purchased by the aforesaid Sale Deed, as per Schedule III appended to the Sale Deed, is only constructed premises on the second floor of the building in question and that there is no proportionate undivided share in the land corresponding to the super built up area sold by way of the said Sale Deed.

7. It is brought to the notice of this Court that the Sale Deed in no manner violates any of the clauses of the Lease Deed and that, therefore, there is no substance in the present Writ Petition.

8. We have perused the representation/complaint dated 15.07.2019, submitted by the Petitioners. We have also perused the contents of the present Writ Petition and particularly the prayer clauses which are quoted herein above. It appears that the Petitioners are seeking a mandamus for terminating the Lease

Deed dated 12.02.1999 and it is claimed that the Sale Deed executed on 14.03.2007, is in violation of the aforesaid Lease Deed. The present Petition has been admittedly filed on 13.11.2019. There can be no doubt about the fact that on the face of it, the Petition appears to be suffering from delay and laches. But the Petition cannot be dismissed only on that ground, if a genuine cause of public interest is sought to be raised on behalf of the Petitioners.

9. But, a perusal of the Lease Deed dated 12.02.1999 when read in conjunction with the Sale Deed dated 14.03.2007, does not in any manner show violation of the clauses of the Lease Deed. There is nothing placed before this Court to indicate that there was any specific wrongdoing on the part of the Respondents while entering into such transactions.

10. The learned Advocate General has brought to the notice of this Court that similar to the Lease Deed in question, there were other such documents executed and various buildings have come up in the area in question and that there is nothing to show that there has been any sort of scam as sought to be alleged by the Petitioners.

11. We are in agreement with the contention raised on behalf of the Respondents, for the reason that the documents on record do not indicate the wrongdoing as alleged by the Petitioners.

12. Insofar as the grievances of the Petitioners that no action was taken on their representation/complaint wherein certain prayers were made for initiation of criminal proceedings, we are

not sitting in advisory jurisdiction to indicate to the Petitioners as to what steps could have been taken if they were aggrieved by inaction on the part of the Police Authorities, despite the representation/complaint submitted by them on 15.07.2019. The Petitioners may take such steps as are available in law in that regard.

13. In view of the above, the Writ Petition is dismissed.

M. S.JAWALKAR, J.

MANISH PITALE J.

ANDREZA PEREIRA
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