

Esha

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 222 OF 2015

WITH

MISCELLANEOUS CIVIL APPLICATION NO. 163 OF 2022

IN

WRIT PETITION NO. 222 OF 2015

Shri Caetano S. Jose Vaz, aged 55 years, son of Shri Hipolito Vaz and residing below Zuari acid tank, near sea shore, Khariawada, Vasco da Gama, Goa.

... PETITIONER

VS

1. The Mormugao Municipal Council, through its Chief Officer, having office at the Municipal Building, Vasco da Gama, Goa.
2. The Goa Municipalities Appellate Tribunal, Panaji, Goa.
3. The Goa Fishing Boat Owners Association, through its President, having office at 3, Jose Luis House, T.B. Cunha Chowk, Kariwada, Vasco da Gama, Goa.
4. The Mormugao Port Trust, through its Chairman, Headland, Sada, Vasco da Gama, Goa.
5. The Goa Coastal Zone Management Authority, through its Member Secretary, Saligao, Bardez-Goa.

6. The State of Goa, through its
Chief Secretary, Secretariat, Alto
Porvorim, Bardez, Goa. ... RESPONDENTS

**WRIT PETITION NOS. 223 & 224 OF 2015
WITH
MISCELLANEOUS CIVIL APPLICATION NOS. 164 & 165 OF 2022
IN
WRIT PETITION NOS. 223 & 224 OF 2015**

Shri Salusinho alias Saluzinho Vaz,
aged 48 years, son of Shri Hipolito Vaz
and residing below Zuari acid tank,
near sea shore, Khariawada, Vasco da
Gama, Goa. ... PETITIONER

VS

1. The Mormugao Municipal Council, through its Chief Officer, having office at the Municipal Building, Vasco da Gama, Goa.
2. The Goa Municipalities Appellate Tribunal, Panaji, Goa.
3. The Goa Fishing Boat Owners Association, through its President, having office at 3, Jose Luis House, T.B. Cunha Chowk, Kariwada, Vasco da Gama, Goa.
4. The Mormugao Port Trust, through its Chairman, Headland, Sada, Vasco da Gama, Goa.
5. The Goa Coastal Zone Management Authority, through its Member Secretary, Saligao, Bardez-Goa.

6. The State of Goa, through its
Chief Secretary, Secretariat, Alto
Porvorim, Bardez, Goa. ... RESPONDENTS

WRIT PETITION NO. 225 OF 2015
WITH
MISCELLANEOUS CIVIL APPLICATION NO. 166 OF 2022
IN
WRIT PETITION NO. 225 OF 2015

Smt. Isabel Maria Vaz, aged 70 years,
wife of Shri Hipolito Vaz and residing
below Zuari acid tank, near sea shore,
Khariawada, Vasco da Gama, Goa. ... PETITIONER

VS

1. The Mormugao Municipal Council, through its Chief Officer, having office at the Municipal Building, Vasco da Gama, Goa.
2. The Goa Municipalities Appellate Tribunal, Panaji, Goa.
3. The Goa Fishing Boat Owners Association, through its President, having office at 3, Jose Luis House, T.B. Cunha Chowk, Kariwada, Vasco da Gama, Goa.
4. The Mormugao Port Trust, through its Chairman, Headland, Sada, Vasco da Gama, Goa.
5. The Goa Coastal Zone Management Authority, through its Member Secretary, Saligao, Bardez-Goa.

6. The State of Goa, through its
Chief Secretary, Secretariat, Alto
Porvorim, Bardez, Goa. ... RESPONDENTS

Mr. Zeller De Souza, Advocate for the Petitioner.

Mr. S.D. Padiyar with Mr. P. Shirodkar, Advocates for
Respondent No. 1.

Mr. Nigel Da Costa Frias, Advocate for Respondent No. 3.

Mr. Yogesh V. Nadkarni with Mr. Sanket Kamat, Advocates
for Respondent No. 4.

Ms. Sapna Mordekar, Additional Government Advocate for
Respondent Nos. 5 and 6 in WP No. 222/2015.

Mr. Vishwadh Sardesai, Additional Government Advocate
for Respondent Nos. 5 and 6 in WP No. 223/2015.

Mr. Manish Salkar, Government Advocate for Respondent
Nos. 5 and 6 in WP No. 224/2015.

Mr. Tukaram Gawas, Additional Government Advocate for
Respondent Nos. 5 and 6 in WP No. 225/2015.

**CORAM: G.S. KULKARNI &
BHARAT P. DESHPANDE, JJ.**

DATED: 13 OCTOBER 2022

ORAL JUDGMENT: (per G.S. Kulkarni, J.)

1. These are four Petitions, in which, the prayers are identical,
illustratively, we refer to the prayers made in Writ Petition No.
222/2015, which read thus:

“(a) That this Hon'ble Court be pleased to call for the records and proceedings from the respondent no. 2 and after perusing the same quash and set aside the impugned order passed by it dated 26.02.2015 in Municipal Appeal No. 06/2011 and also quash and set aside the final notice dated 27.10.2010 issued by the respondent no. 1 bearing reference no. MMC/Tech/(File-4)/Order-FinalNotice/10-11/2086 to the petitioner by issuing a writ of certorari or a writ in the nature of certorari.

(b) For a stay of the impugned judgment dated 26.02.2015 passed by the respondent no. 2 in Municipal Appeal No. 06/2011 pending the hearing and final disposal of this instant petition.

(c) For ad-interim ex-parte relief in terms of prayer clause (b) above.

(d) For such other and further relief.”

2. A common issue on law and facts have been raised in these Petitions. As seen from the prayers, as noted above, the challenge, as raised by the petitioners is to the order dated 26 February 2015 passed in Municipal Appeals passed by the Goa Municipalities Appellate Tribunal, which had arisen from the final notice dated 27 October 2010 issued by the respondent no. 1-Mormugao Municipal Council (for short, MMC) objecting to the structures of the petitioners being illegal.

3. By the impugned order, the challenge as mounted to the action of the MMC against the structures of the petitioners has been repelled by the Goa Municipalities Appellate Tribunal thereby rejecting their Appeal.

4. As Rule was issued on these Petitions, these Petitions are being heard finally.

5. During the course of hearing of these Petitions, it has been pointed out by Mr. Padiyar, learned Counsel for respondent no. 1– MMC as the Major Port Trusts Act, 1963 has been repelled by the Major Port Authorities Act, 2021 (for short, “the MPA Act”) as brought into force with effect from 3 November 2021, the need for adjudication of these Petitions would not arise as the jurisdiction on such structures no more remains with the MMC but with respondent no. 4–Mormugao Port Authority (for short, MPA).

6. Mr. Padiyar has drawn the Court's attention to the definition clause as contained in Section 2 of the said MPA Act. He has also drawn the Court's attention to Sections 22 and 68 of the said Act, which pertains to the usage of port assets by the Board. Mr. Padiyar referring to the provisions of the said Act, would contend

that the MPA Act demonstrates a complete scheme insofar as the management of the assets of the port are concerned. It is submitted that in view of the said provisions, the MMC can have no jurisdiction/cause to question the illegality of any of these structures, which are in fact the assets under respondent no. 4-MPA. He submits that in that view of the matter, the adjudication as made by the Goa Municipalities Appellate Tribunal in deciding the Municipal Appeal is rendered inconsequential, in view of such statutory regime as introduced by the MPA Act. It is submitted that it is now for respondent no. 4-MPA to take appropriate action as may be permissible to it under the provision of Section 68 of the MPA Act, which specifically provides for the powers of the Board to evict persons from the premises of the Board.

7. On perusal of the relevant provisions of the Act, we find ourselves in agreement with Mr. Padiyar that these Petitions would not warrant any further adjudication. Accordingly, we dispose of these Petitions, however, keeping open all contentions of the petitioners as also of respondent no. 4-MPA on any action if resorted by respondent no. 4-MPA against the petitioners in the manner known to law. All contentions of all parties in that regard are expressly kept open.

- 8.** Rule accordingly stands discharged. No costs.

BHARAT P. DESHPANDE, J.

G.S. KULKARNI, J.