

Maria S.

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.370 OF 2022

1. SMT. RADHABAI VITHAL NARVEKAR,
Widow of Vithal Krishna Narvekar
alias Vitol Krishna Narvekar
Age-85 years,

2. SHRI. UDAY VITHAL NARVEKAR,
Son of late Vithal Krishna Narvekar
Age-59 years, married,
Occupation-mason work,

3. SMT. UJWALA UDAY VITHAL
NARVEKAR,
Wife of Uday V. Narvekar
Age-55 years, housewife,

4. SHRI KRISHNA VITHAL NARVEKAR
Son of late Vithal Krishna Narvekar
Age-56 years, married,
Occupation-Auto-Rickshaw driver

5. SMT. KAVITA KRISHNA NARVEKAR,
Wife of Krishna V. Narvekar
Age-51 years, Occupation-housewife,

6. SHRI LAXIMAN VITHAL NARVEKAR
Son of late Vithal Krishna Narvekar
Age-53 years, married,
Occupation-Auto-Rickshaw driver

7. SMT. LAXITA LAXMAN NARVEKAR
Wife of Laxman V. Narvekar
Age-51 years,
Occupation-housewife

8. SHRI DEVIDAS VITHAL NARVEKAR

Son of late Vithal Krishna Narvekar

Age-50 years, married,

Occupation-Taxi driver,

9. Smt. Deepa Devidas Narvekar,

Wife of Devidas V. Narvekar

Age-46 years, housewife

10. SHRI. SUNIL VITHAL NARVEKAR

Son of late Vithal Krishna Narvekar

Age-48 years, married, LIC agent,

11. SMT. SANGEETA SUNIL NARVEKAR,

Wife of Sunil V. Narvekar

Age-44 years, Housewife

12. SHRI. DEEPAK VITHAL NARVEKAR

Son of late Vithal Krishna Narvekar

Age-46 years, married, worker/helper

13. SMT. DEEPIKA DEEPAK NARVEKAR

Wife of Devidas V. Narvekar

Age-48 years, Housewife

All residents of Khadpawada, Cuchelim,

Mapusa, Bardez, Goa

[The Petitioners No.1 to 9 and

Petitioners No.11 to 13 are

represented through their constituted

Power of Attorney, Shri Sunil Vithal Narvekar

The Petitioner No.10 abovenamed.]

...Petitioners

Versus

1. THE STATE OF GOA

Through its Chief Secretary,

With office at the Secretariat,

Porvorim, Goa

2. THE ADDL. COLLECTOR(III),
NORTH GOA DISTRICT
With office of Collectorate Building,
Mapusa, Bardez, Goa.

3. THE DEPUTY COLLECTOR & S.D.O
With office of Collectorate Building,
Mapusa, Bardez, Goa.

4. DR. SURESH VINAYAK NAGVENKAR
alias Surexa Vinayeca Nagvecar,
Son of late Vinayak Nagvekar,
Age-70 years, married
Occupation-Medical Practitioner,

5. SMT. EMUNA ALIAS SUSHMA SURESH
NAGVEKAR

Wife of Surexa Vinayaca Nagvecar,
Age-64 years,

Both residents of H.No.590,
Sodiem, Siolim, Bardez, Goa

6. KUM. DEEPA EKNATH CHATIM
Daughter of late Eknath Chatim,
Age-50 years,

7. SHRI. BHUPESH EKNATH CHATIM
Son of late Eknath Chatim,
Age-48 years,

8. SHRI. JANARDHAN ALIAS
SIDDHESH EKNATH CHATIM
Son of late Eknath Chatim,
Age-46 years,

9. SHRI. LAXMINARAYAN JANARDHAN
CHATIM
Son of late Janardhan Chatim
Age- 74 years,
All residents of H.No.158
Cunchelim, Mapusa, Bardez, Goa

...Respondents

Mr. Sudesh M. Usgaonkar with Ms. Maria Rosette Pereira,
Advocates for the Petitioners.

Mr. Devidas J. Pangam, Advocate General with Mr. Prashil Arolkar, Additional Government Advocate for Respondents No.1 to 3.

Mr. Shivan Desai, Advocate for the Respondents No.4 and 5.

**CORAM: M. S. SONAK &
BHARAT P. DESHPANDE, JJ.**

DATED : 15th NOVEMBER, 2022

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

Heard Mr Sudesh Usgaonkar with Ms Rosette Pereira, learned counsel for the petitioners, Mr Devidas J. Pangam, learned Advocate General, along with Mr Prashil Arolkar, learned Additional Government Advocate for the respondents No.1 to 3 and Mr Shivan Desai, learned counsel for the respondents No.4 and 5.

2. Rule. The rule is made returnable forthwith with the consent of and at the request of learned counsel for the parties.

3. The challenge in this petition is to the Conversion Sanad dated 04.12.2020 (Exhibit A) on the ground that the same was obtained by suppression or misrepresentation of the correct factual position.

4. Mr Usgaonkar, learned counsel for the petitioners, submits that documentary evidence indicates that the land, which is the subject

matter of the Conversion Sanad, was tenanted. He refers to a decree in Regular Civil Suit No.74/1976 made on 12.04.1984. Clause 6 of the said Decree records that the plaintiff in the said suit has no objection to entering the defendant's name as a tenant in possession of the property, which is the subject matter of the Conversion Sanad. Mr Usgaonkar relies upon the Goa Land Use (Regulation) Act, 1991 to submit that any land vested in a tenant under the provisions of the Goa Agriculture Act, 1964, cannot be used or allowed to be used for any purpose other than agriculture. Mr Usgaonkar points out that Section 2 Act of the Goa Land Use (Regulation) Act of 1991 contains a *non-obstante* clause overriding the provisions of the Land Revenue Code.

5. Mr Shivan Desai, learned counsel for respondents No.4 and 5, disputes the above position, inter alia, to point out that there was never any declaration of tenancy in this matter. Therefore the provisions of the 1991 Act would not apply. Further, he submits that a civil suit is pending in which certain gift deeds have been challenged. For all these reasons, he submits that no relief be granted in this petition.

6. The impugned Conversion Sanad is granted subject to specific terms and conditions. Clause 6 of this sanad reads as follows:

'6. a) If any information furnished by the applicant for obtaining the Sanad is found to be false at a later stage, the Sanad issued shall be liable to be withdrawn without

prejudice to the legal action that may be taken against the applicant.

b) If any dispute arises with respect to the ownership of the land, the Sanad granted shall stand revoked and the construction/development carried out shall be at the cost and risk of the applicant.

c) The necessary road widening set-back is to be maintained before any development in the land.

d) Traditional access passing through the plot, if any, shall be maintained.

e) No trees shall be cut except with prior permission of the competent authority.'

7. Since the allegation in this petition is about the applicant furnishing false information or suppressing the correct information, it is evident that such an allegation can be looked into by the authority that has issued the Conversion Sanad. Such authority will have to consider the version of the petitioners and respondents. No.4 and 5 and then decide whether any case is made out for revocation of the Conversion Sanad.

8. Learned Advocate General states that the Additional Collector will consider this writ petition as a complaint/representation and dispose of the same following law. Mr Desai says that respondents No.4 and 5 will file their response within four weeks from today before the Additional Collector without seeking any formal notice from the Additional Collector or additional time for filing of reply.

9. The petitioners and respondents No.4 and 5 to appear before the Additional Collector on 20.12.2022 at 3:30 P.M., on which date

respondents No.4 and 5 will file their replies. Suppose the petitioners desire to file a rejoinder, the Additional Collector is to grant reasonable time to the petitioners for filing the same.

10. The Additional Collector is to afford an opportunity of hearing to the petitioners and respondents No.4 and 5 and dispose of this representation/complaint following the law as expeditiously as possible and, in any case, on or before 31.03.2023. The Additional Collector is to communicate the decision to the parties on or before 31.03.2023.

11. Until the Additional Collector decides this matter, respondents No.4 and 5 are restrained from undertaking any construction or development in pursuance of the impugned Sanad and on the property, which is the subject matter of the Impugned Sanad.

12. This Court has not examined the rival contentions; therefore, all contentions of all parties on merits are kept open to be decided in the first instance by the Additional Collector.

13. The rule is disposed of in the above terms.

14. There shall be no order for costs.

BHARAT P. DESHPANDE, J.

M. S. SONAK, J.