

Meena

**IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.465 OF 2022**

DILIP PARULEKAR	... PETITIONER
Versus	
STATE OF GOA THR. CHIEF SECRETARY	
AND 4 ORS	... RESPONDENTS

Mr. Deepak Gaonkar, Advocate for the Petitioner.

Mr. Deep Shirodkar, Additional Government Advocate for Respondents No.1 to 4.

**CORAM: G. S. KULKARNI &
 BHARAT P. DESHPANDE, JJ.**
DATED: 29th September, 2022

ORAL ORDER:(Per Bharat P. Deshapande,J.)

The petitioner is seeking relief as found in prayer clause 'a'. He being aggrieved by the inaction of respondents No.1 to 4 in not deciding the application for regularisation from the year 2014 till date.

2. Heard learned Counsel Mr. Gaonkar for the petitioner and Mr. Deep Shirodkar, learned Additional Government Advocate appearing for respondents.

3. Since we are proposing to dispose of this petition, it is not necessary to issue notice to respondent No.5 as the petition itself

shows that respondent No.5 has already processed the file and forwarded it to the Administrator of Comunidade who thereafter forwarded the file to respondent No.2/Collector, North Goa where it is pending at present.

4. In PILWP No.25 of 2013, this Court vide judgment and order dated 25/02/2014 observed as follows:

“38. It is seen that in this case, the Comunidade land has, admittedly, been encroached upon by respondent No.4. Even if he was granted a valid lease initially, it was only for a small portion of the disputed property. He has encroached upon further land. He desired to regularise the encroachment. He must pay the price for it. That is the value of the land. That value would have to be fixed based upon its value at the time of the encroachment. Such a fixation should be made as per the letter/order of the Government dated 4.10.2006. It is seen that the letter/order is in consonance with reality, as also reasonableness, calling for 10% increase each year. Hence, the value of the land at the time of encroachment + 10% augmentation each year, until the date of payment would be required to be paid. Such payment would legitimately regularise the otherwise unauthorised occupation of respondent no.4. As the amount which has been received from the respondent no.4 by respondent no.1 is not in accordance with the provisions of the Code of Comunidade, the order of the respondent no.3 dated 27.09.2012 for

regularization of the encroachment cannot stand judicial scrutiny. Apart from that, the respondents have not complied with the provisions of the Code of Communitade in accordance with the mandate therein nor obtained any consent from the Government for such purpose. Under such circumstances, we find it appropriate to quash and set aside the impugned order of the respondent no.3 dated 27.09.2012 for regularization of the encroached land and direct the respondent nos.1, 2 and 3 to proceed with the process of regularization of the encroached land in the light of the observations made hereinabove in accordance with law.”

5. The respondents No.1 and 2 in the said petition and effectively respondent No.2 were directed to process the regularisation of the encroachment in the land made by the present petitioner who was respondent No.4 therein, in accordance with the law.

6. The main grievance of the learned Counsel Shri Gaonkar appearing for the petitioner is that from the year 2014 respondents No.1 to 4 failed to take steps as directed by this Court in the PILWP 25 of 2013.

7. The learned Additional Government Advocate Mr. Shirodkar submitted that he wants to take instructions with regard to the process. However, the view which we are taking in the present matter is only to direct respondents No.1 to 3 to complete the process within a stipulated period by taking up an appropriate decision in accordance with the law.

8. Considering the fact that the regularisation is pending from the year 2014, it is expected from the concerned authorities to take a decision in accordance with the law and communicate it to the petitioner.

9. Accordingly, we dispose of this petition with directions to respondents No.1 to 4 to take a decision on the application filed by the petitioner for regularisation of the encroachment on an area of 599 sq.mtrs. in Survey No.376/6 of Village Soccorro Tal. Bardez, Goa as disclosed in the petition, within a period of six months from today and to communicate such decision to the petitioner.

10. With the above observations, the petition stands disposed of.

11. It is made clear that there shall not be any further extension of time to take a decision considering the time already taken from the year 2015 till date.

12. In view of the above observations, we have moulded the petitioner's relief in prayer clause 'a' of the Petition.

BHARAT P. DESHPANDE, J.

G. S. KULKARNI, J.