

Vinita

IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO.792 OF 2019

DAMODAR DIVKAR.,	...Petitioner
VS	
STATE OF GOA, THR. CHIEF	
SECRETARY AND 3 ORS.	...Respondents

Mr. S. Mahambrey, Advocate for the petitioner.
Mr. P. Faldessai, Addl. Govt. Advocate for the respondent nos.1 and 2.

CORAM: MANISH PITALE, J.

Date: 24th JANUARY, 2022

ORAL ORDER.

1. By this Writ Petition, the petitioner has challenged order dated 8.5.2019, passed by the respondent no.2 i.e the Deputy Collector of Mormugao, whereby objections raised on behalf of the petitioner to the process of regularisation of government lands in favour of the respondent nos. 3 and 4, have been rejected.

2. Mr. Mahambrey, learned Counsel for the petitioner submits that the respondent nos. 1 and 2 has erred in rejecting the objections by observing that such objections cannot be decided "at this stage". It is contended that the petitioner, *inter alia*, has raised specific objections in the matter on the basis of the Goa Daman and Diu Land Revenue (Disposal of the Government Land) Rules 1971, but the

respondent no. 2 has not decided the objections in accordance with law.

3. On the other hand, Mr. P. Faldessai, learned Addl. Govt. Advocate appearing for the respondent nos. 1 and 2 submits that the respondent no.2 proceeded to decide the objections on the basis of what was contended and argued on behalf of the petitioner. It was submitted that process of regularisation was yet to reach its finality and therefore, the petitioner was not justified in rushing to this Court.

4. The respondent nos. 3 and 4 were served with the notice in the present Writ Petition but they chose not to appear before this Court.

5. Having heard learned Counsel for the rival parties, it becomes evident that the present case concerns the question of claim of respondent nos. 3 and 4 for regularisation of certain Government lands in their favour. The manner in which Government land is to be disposed of appears to be governed by the relevant Rules i.e Goa Daman and Diu Land Revenue (Disposal of the Government Land) Rules 1971.

6. A perusal of the said Rules, particularly, Rule 25 shows that the Collector is expected to follow certain procedure while disposing of government lands. Rule 35 refers to the disposal of small strips of lands. These provisions appear to be relevant for disposal of the

government lands and, in this case considering the prayer of respondent nos.3 and 4 for regularisation of government lands in their favour.

7. This Court is of the opinion that when the process for such regularisation is sought to be undertaken, the respondent no 2 is expected to consider the objections raised in that regard, particularly in the backdrop of the aforesaid land disposal Rules. Although the petitioner appears to have made some allegations regarding political influence etc, this Court is more concerned about the point of law sought to be raised on behalf of the petitioner before the respondent no.2 in his written arguments, wherein there is specific reference to the aforesaid Rules. The respondent no.2 does not appear to have dealt with such objections in the manner expected.

8. In view of the above, it would be appropriate to set aside the impugned order and direct the respondent no.2 to consider the objections raised by the petitioner and objections raised by any other persons as regards the aspect of regularisation of government lands in favour of respondent nos. 3 and 4.

9. Hence, the Writ Petition is partly allowed. The impugned order is quashed and set aside. The petitioner is permitted to file supplementary affidavit before the respondent no. 2 to raise further

detailed objections, particularly in the backdrop of the aforesaid Rules. Such supplementary affidavit be filed within a period of two weeks from today. Thereafter, the respondent no. 2 shall decide the objections raised by the petitioner strictly in accordance with law within a period of six weeks. Needless to say that the respondent no.2 shall give an opportunity of proper hearing to the petitioner and the respondent nos. 3 and 4. This Court has not expressed any opinion on the merits of the matter.

10. Writ Petition stands disposed of accordingly.

MANISH PITALE J.