

Meena

**IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.973 OF 2019**

1. Mr Kevin Pinto Rebelo,
major of age, 5th Floor, Siddharth Bandokar
Bhavan, Dr. P. Shirgaonkar Road, Panaji, Goa.

2. Mrs Tanveer Hassan Shaikh,
major of age, 5th Floor, Siddharth Bandokar
Bhavan, Dr. P. Shirgaonkar Road, Panaji, ...Petitioners
Goa.

Versus

1. The Collector,
South Goa District,
Government of Goa,
Mathany Saldanha Administrative Complex,
Margao, Salcete, Goa.

2. Mr. Ajit Roy,
major of age, service,
currently serving as Collector, South Goa,
Mathany Saldanha Administrative Complex,
Margao, Salcete, Goa.

3. Dr. Oscar F. Pinto Rebelo,
major of age, 5th Floor,
Siddharth Bandokar Bhavan,
Dr. P. Shirgaonkar Road, Panaji, Goa.

4. Mrs. Veronica M. De Souza,
major of age, 5th Floor,
Siddharth Bandokar Bhavan,
Dr. P. Shirgaonkar Road, Panaji, Goa.

5. Mr Ashley J. Pinto Rebelo,
major of age, 5th Floor,
Siddharth Bandokar Bhavan,
Dr. P. Shirgaonkar Road, Panaji, Goa.

6. Mr Gerson Rebelo,
major of age, married,
H.No.51, Pocvaddo, Betalbatim, Salcete, Goa. ...Respondents

**Mr A.F. Diniz, Senior Advocate with Mr Ryan Menezes and
Mr Nigel Fernandes, Advocates for the Petitioners.**

**Mr. Manish Salkar, Government Advocate for Respondent
Nos.1 and 2.**

**CORAM: M. S. SONAK, J.
DATE: 10th March 2023**

ORAL JUDGMENT.:

1. Rule. Considering the order dated 10/02/2023, the petition is taken for final disposal at admission.

2. Heard Mr A.F. Diniz, Senior Advocate, who appears along with Mr Ryan Menezes and Mr Nigel Fernandes, learned Counsel for the petitioners and Mr Manish Salkar, learned Government Advocate for respondents Nos.1 and 2.

3. Mr Diniz states that the interest of respondents Nos.3 to 5 is not adverse to that of the petitioners. He says that respondents Nos.3 and 5 are siblings of petitioner No.1 and respondent No.4 is the

sister-in-law of petitioner No.1. Mr Diniz states that respondent No.6 is duly served in this matter and even an affidavit of service has been filed. Finally, Mr Diniz points out that this Court's order dated 10/02/2023 is duly complied with.

4. Based on instructions, Mr Diniz learned Senior Counsel seeks leave to withdraw the allegations against respondent No.2. Such allegations are contained mainly in paragraph No.3.12 of the petition. Accordingly, leave is granted, and such allegations in the petition stand withdrawn.

5. As contended by Mr Diniz, the record indeed bears out that the impugned judgment and order dismissing the petitioners' application for conversion was passed without allowing a personal hearing to the petitioners. Mr Diniz pointed out that the judgment and order rely upon an inspection report of the Public Works Department(PWD). He submits that such a report is based on an inspection which was not carried out after notice to the petitioners. Consequently, he presents that the petitioners did not have sufficient opportunity to deal with the report.

6. The impugned judgement and order were made without hearing the Petitioner. There was some controversy about the road width. The Petitioner should have been heard and allowed to produce

material to refute the observations in the report. Considering the above position, the impugned judgment and order dated 29/10/2019 are set aside only on the ground of failure of natural justice and without going into the merits of the matter.

7. The Collector /competent authority must now dispose of, following the law, the petitioners' application for conversion after allowing a personal hearing to the petitioners, Officers of PWD, the Town and Country Planning Department and respondent No.6, who it appears, had objected to the grant of conversion sanad to the petitioners, must also be heard, if they wish to.

8. Further, it is clarified that if the PWD or any other authorities wish to hold a further inspection of the site, then it would be better if such an inspection is held after giving due notice to the petitioners and respondent no 6. The petitioners and respondent no 6 are also granted the liberty to produce additional material before the Collector within four weeks, particularly in the context of the inspection report already filed on record by the PWD or other matters. The competent authority must duly consider the materials that the parties produce and, after hearing the parties, dispose of the application for conversion.

9. The rule is made absolute in the above terms without any cost order.

10. Mr Diniz states that a copy of this order will be served on respondents 3 to 6 within ten days from today. All concerned to act on an authenticated copy of this order.

M. S. SONAK, J.