

Andreza

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 745 OF 2023

1. Bhaghirati Raghunath Sawant, Aged 75 years, r/o.
H.No.81/1, Village Coparde, Sattari-Goa.
2. Rajendra Raghunath Sawant, Aged 45 years, r/o.
H.No.81/1, Village Coparde, Sattari-Goa.
3. Kesar Rajendra Sawant, Aged 40 years, r/o.
H.No.81/1, Village Coparde, Sattari-Goa.
4. Vishal Raghunath Sawant, Aged 38 years, r/o.
H.No.81/1, Village Coparde, Sattari-Goa.
5. Babi Bhiva Sawant, Aged 65 years, r/o.
H.No.81/1, Village Coparde, Sattari-Goa.
6. Ramabai Babi Sawant, Aged 63 years, r/o.
H.No.81/1, Village Coparde, Sattari-Goa.
7. Pandurang Bhiva Sawant, Aged 63 years, r/o.
H.No.81/1, Village Coparde, Sattari-Goa.
8. Pragati Pandurang Sawant, Aged 60 years, r/o.
H.No.81/1, Village Coparde, Sattari-Goa.
9. Sanjay Bhiva Sawant, Aged 51 years, r/o.
H.No.81/1, Village Coparde, Sattari-Goa.
10. Shreya Sanjay Sawant, Aged 46 years, r/o. ... Petitioners
H.No.81/1, Village Coparde, Sattari-Goa.

V e r s u s

1. The District Collector North Goa, Revenue
branch Collectorate Building, Panaji, Goa.
2. The Mamlatdar, Sattari Taluka, Valpoi, Sattari, ... Respondents
Goa.

Mr. Paresh Sawant, Advocate for the Petitioners.

Mr. D. Pangam, Advocate General with Mr. Shubham Priolkar,
Additional Government Advocate for the Respondents-State.

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

DATED: 21st FEBRUARY, 2024

ORAL ORDER

1. Heard Mr. Paresh Sawant, learned Counsel for the Petitioners and Mr. Pangam, learned Advocate General for the Respondents.

2. The challenge in this Petition is to the communication dated 02.05.2023, by which the Petitioners' applications for regularization of Government Alvara lands in terms of Section 37A of the Goa Land Revenue Code, have been rejected. The impugned communication dated 02.05.2023 reads as follows :

"To,
Smt. Bhagirathi Ragunath Sawant & 9 Others
R/o. H.No.81, Coporde,
Mauxi V.P., Valpoi
Sattari- Goa.

Sub :-Application for Regularization of Government /Alvara land as per Act,2017 (Goa the Goa Revenue Code (Amendment) Act No. 2 of 2018) surveyed Under Sy. No. 46/2 of Compordem village of Sattari Taluka.

Sir,

I am directed to refer to your application dated 24/07/2018, received by this office on 24/07/2018 on the captioned subject above, and to inform you that the Alvara No. 1642 granted to Bivam Babi Saunto is found in the reverted list of Alvara. Hence, your application for regularization of Government / Alvara land cannot be considered.

However, you may apply under Section 38 of LRC, for regularisation of encroachment on Government land if you are in possession of said property till date.

This is for your kind information.

Yours Faithfully,

Sd/- (02.05.2023
(Vrushika P. Kauthankar)
Deputy Collector (Revenue)
North Goa, District

3. Learned Advocate General submits that the impugned communication dated 02.05.2023 is nothing but an order under Section 37A of the Goa Land Revenue Code. He submits that such Order is appealable under Section 188 of the Land Revenue Code. The learned Advocate General states that although the impugned communication/Order dated 02.05.2023 is made by the Deputy Collector (Revenue), the same is made under Section 37A in his capacity as the Collector. Learned Advocate General, therefore, submits that an appeal will lie against this communication/Order before the Administrative Tribunal in terms of Section 188 of the Goa Land Revenue Code.

4. According to us, the impugned communication is nothing but an Order under Section 37A of the Goa Land Revenue Code. Since the Petitioners have an alternate and efficacious remedy to an appeal under Section 188 of the Goa Land Revenue Code, it would not be appropriate for us to exercise our extraordinary jurisdiction. But, liberty can always be granted to the Petitioners to avail alternate remedy under Section 188 of the Code.

5. Mr. Sawant states that the Petitioners would institute an appeal before the Tribunal within a month from today. If such appeal/appeals are instituted within a month from today, we think that the same should be decided on merits instead of going into the issue of limitation. Even otherwise, the Tribunal has sufficient powers to condone the delay in instituting the appeals.

6. In this case, we are satisfied that the Petitioners have instituted this Petition bonafide because, as was pointed out by Mr. Sawant, that they were under the impression that the impugned communication

dated 02.05.2003 may not qualify as an Order under Section 37A of the Code. Considering these peculiar circumstances, even the learned Advocate General states that issue of limitation will not be raised and the appeals, if instituted within a month from today, could always be decided on their own merits.

7. Accordingly, we dispose of this Petition by making the following Order:

ORDER

(a) The Petition is not entertained because the Petitioners have an alternate and efficacious remedy of instituting an appeal under Section 188 of the Goa Land Revenue Code before the Administrative Tribunal.

(b) If the Petitioners institute an appeal before the Tribunal within one month from today, the Tribunal should dispose of such appeal on its own merits and in accordance with law without going into the issue of delay, limitation, etc.

(c) All contentions of all parties on merits (except the contention of limitation) are left open for determination by the Tribunal in the first instance.

8. All concerned to act based on an authenticated copy of this Order.

BHARAT P. DESHPANDE, J.

M. S. SONAK, J.

ANDREZA PEREIRA Digitally signed by ANDREZA PEREIRA
Date: 2024.02.23 12:47:12 +05'30'