

Esha

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 688 OF 2023

1. Mr. Vithu Madhukar Nagvekar,
43 years of age,

2. Ms. Alisha Vithu Nagvekar, 32
years of age,

Both are residents of H. No. 1,
Salvador-do-Mundo, Bardez-Goa. ... PETITIONERS

Versus

1. The Collector, North Goa,
Collectorate, Panaji – Goa.

2. Mamlatdar of Bardez, having
office at Mapusa, Bardez – Goa.

3. The Administrator of
Comunidade, North Zone,
Bardez, Mapusa – Goa.

4. The Comunidade of Serula,
through the Administrator of
Comunidade, North Zone,
Panaji – Goa. ... RESPONDENTS

Mr. Ashwin D. Bhobe with Ms. Shaizeen Shaikh, Advocates
for the Petitioners.

Ms. Sapna Mordekar, Additional Government Advocate for
Respondent Nos. 1, 2 and 3.

Mr. Anthony D'Silva with Ms. Kimberley Gracias, Advocates
for Respondent No. 4.

CORAM: BHARAT P. DESHPANDE, J.

DATED: 15th FEBRUARY 2024

ORAL JUDGMENT:

1. Heard.
2. Rule. Rule is made returnable forthwith.
3. Heard the matter with consent for final disposal.
4. The present Petition is filed with the prayers as under:
 - (a) *For a writ of certiorari, order of direction in the nature of certiorari, calling for the records and proceedings of Revision Case No. 15/7/2018-RD on the file of Court of the Revisional Authority and upon perusing the propriety and legality of the Impugned Order passed in Revision Case No. 15/7/2018-RD, be pleased to quash and set aside the Impugned Order dated 17/09/2021, thereby dismiss the Revision Case No. 15/7/2018-RD filed by the Respondent No. 1, by restoring the Order passed by the Respondent No. 2.*
 - (b) *For stay of the implementation/ operation/ execution of the Impugned Order dated 17/09/2021 passed by the Revisional Authority in Revision Case No. 15/7/2018-RD, pending the hearing and final disposal of the present petition.*
 - (c) *Ad-interim reliefs in terms of prayer clause (b).*

(d) Ex-parte ad-interim reliefs in terms of prayer clause (b).

(e) Any other order this Hon'ble Court deems fit and proper in the facts and circumstances of the case.

5. Mr. Bhobe appearing for the Petitioners and Mr. Silva appearing for Respondent No. 4-Comunidade submit that though Applications were filed for mutation in the name of Madhukar Nagvekar, he expired in the year 2011 itself. Mr. Bhobe would then submit that subsequently, the Petitioner, who is the son of late Madhukar Nagvekar filed a Mutation Application on 09.04.2018, which was disposed of by the concerned Authority and also, the objections raised against it were decided by the Appellate Authority, which are challenged in the present proceedings. However, it is found that there is a civil suit now filed by Respondent No. 4-Comunidade in respect of some property which is pending before the Civil Court at Mapusa. It is submitted by the learned Counsel for Respondent No. 4-Comunidade that the Petitioners are party to the said civil suit.

6. The Application filed in the name of Madhukar Nagvekar in the year 2017 could not have been entertained by the concerned Authority because Madhukar Nagvekar expired somewhere in

2011 itself and thus, there was no question of carrying on mutation entries in the name of a dead person. The Petitioner who is the son of Madhukar Nagvekar could have applied for mutation in his name.

7. Thus, the Application filed in the name of Madhukar Nagvekar for mutation of respective survey holdings somewhere in 2017 is required to be considered as null and void and the proceedings conducted on such Application are also considered as void.

8. Subsequently, the Petitioners filed three Applications for mutation in the year 2018. It is the contention of Respondent No. 4-Communidade that no notice was issued to them in such proceedings, even though they are the original owners of the said land.

9. The orders passed by concerned Mamlatdar dated 06.12.2017 in Mutation Nos. 62192, 62194, 62196 and 62189 and orders dated 16.04.2018 in Mutation Nos. 64061, 64062 and 64063, on the Application filed by the Petitioners in the year 2018 as well as the order of the Revisional Authority dated 17.09.2021, need to be quashed and set aside. However, the Mamlatdar could

be directed to proceed in accordance with law by considering such Application afresh for mutation filed by the Petitioners by giving an opportunity to the Respondents and any other person who is interested in such survey holding before passing the orders on mutation.

10. The Petition could be disposed of by quashing and setting aside the mutation Application along with the proceedings conducted thereon in the year 2017 i.e. the proceedings filed in the name of Madhukar Nagvekar.

11. The Application filed by the Petitioner in the year 2018 is restored to the file of the Mamlatdar by quashing the orders passed therein and as mentioned above with a direction to decide such an Application afresh by giving opportunity to the Respondents and any other interested person. Needless to say that this Court has not gone into the merits of the contentions raised against each other. All contentions of all parties are kept open. The Mamlatdar shall decide afresh the Application filed by the Petitioners in accordance with law and within a period of six months from today.

12. Rule is made absolute in the above terms.

13. Parties to act on an authenticated copy of this order.

BHARAT P. DESHPANDE, J.

VAIGANKAR
ESHA SAINATH



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