

Santosh

**IN THE HIGH COURT OF BOMBAY AT GOA**

**WRIT PETITION NO.435 OF 2021**

BERTA ALIAS BERTALINHA LOURENCO,  
THR. POA, HELEN LOURENCO

... PETITIONER

Versus

ROSARIO FRANCISCO A. BOTHELO

... RESPONDENTS

Mr Gelileo Teles, with Mr Ameya Sail, Advocates for the Petitioner.  
Mr Jose Filipe Melo, Advocate for Respondent Nos. 1(a) to 1(f) and  
2.

**CORAM:- VALMIKI MENEZES, J.**

**DATED :- 4th April, 2024**

P.C.:

1. After hearing this Petition for some time, it has become evident that the main challenge raised herein is to an order dated 21/12/2015, passed by the Joint Mamlatdar under Section 16 of the Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975 (Act), against which an alternate remedy of an appeal has been provided in terms of Section 24 of the Act. The fact that there is an alternate and equally efficacious remedy provided by the statute to the Petitioner, would act as a bar to the maintainability of this Petition and on that count alone, the same is required to be dismissed.

2. From the record, it appears that the Petitioner was served with a notice of a purchase proceedings under Section 16 of the Act, though it

may be doubtful from the record whether she participated in the said purchase proceedings and the order having been passed on 21/12/2015, by which the deceased Respondent No.1 purchased the house and the land appurtenant to it, as demarcated under this order.

3. A purchase certificate was also issued to Respondent No.1 on 29/11/2016 and pursuant to mutation proceedings under the Goa, Daman and Diu Land Revenue Code, 1968, mutation was also carried out in the survey record in his name on 13/7/2017.

4. It is the Petitioner's claim, as set out in paragraph 12 of the Petition, that she was not served with the notice of mutation proceedings and became aware of the mutation proceedings only when she was served with the notice of a partition proceedings under the Land Revenue Code in August 2018. There is, however, no explanation in the Petition or in any other proceedings placed on record as to why the Petitioner did not avail of the alternate remedy of an appeal in terms of Section 24 of the Act, after becoming aware of the mutation proceedings. There is also no statement made anywhere on record explaining why, though the Petitioner was aware of the purchase order having been passed on 29/11/2016, she has not pursued the alternate remedy of an appeal since then.

5. Taking all these factors into consideration and the lack of any explanation in the Petition for the delay of almost 6 (six) years in filing

this Petition to challenge the order of purchase, I see no reason why I should entertain such a Petition, more so, exercise jurisdiction under Article 227 of the Constitution of India.

6. Considering that the Petitioner has an alternate remedy of an appeal under Section 24 of the Act, she may pursue the same. Consequently, this Petition is not maintainable and is, hereby dismissed as not maintainable. All points raised in this Petition, including any challenge to the purchase order dated 29/11/2016, are kept open and may be agitated by the Petitioner in an appeal that may be filed by her, subject to the law of limitation. Similarly, all contentions of the parties are left open.

**VALMIKI MENEZES, J.**