Jose

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.305 OF 2025

Shri. Uday G. Naik,
Son of late Govind P. Naik,
55 years of age, businessman,
Resident of House No. 157,
Opposite Goa College of Pharmacy,
18th June Road,
Panaji, Goa. ... Petitioner.

Versus

1) Mr Jose Inacio Guido de Loyola Furtado,
of full age, resident of House No. 495,
Guimaka Building,
Panaji, Goa;

2) Ms. Manuela Fonseca,
of full age, resident of Avenida
Dr. Marques Crespo 12,
Primeiro District,
Estrenoz, 7100 Codem,
Portugal;

3) Ms. Maria de Luz Fonseca,
of full age, resident of Avenida
Dr. Marques Crespo 12,
Primeiro District,
Estrenoz, 7100 Codem,
Portugal;

4) Mr. Jeronimo De Silva,
of full age, resident of Avenida

Dr. Marques Crespo 12,
Primeiro District,
Estrenoz, 7100 Codem,
Portugal;

5) Mrs. Jacqueline Fonseca,
of full age, resident of Avenida
Dr. Marques Crespo 12,
Primeiro District,
Estrenoz, 7100 Codem,
Portugal;

6) Mr. Luis Emilo Fonseca
of full age, resident of Avenida
Dr. Marques Crespo 12,
Primeiro District,
Estrenoz, 7100 Codem,
Portugal. ... Respondents.

Mr. Sudin Usgaonkar, Senior Advocate with Ms. Divya Parab, Advocate for the Petitioner.

Mr. J.E. Coelho Pereira, Senior Advocate with Mr. Jeet Volvoikar, Advocate for Respondent No.1.

CORAM: VALMIKI MENEZES, J.

DATED: 31st July, 2025

ORAL JUDGMENT:

1. Registry to waive office objections and register the matter.

2. Rule. Rule made returnable forthwith. With the consent of the parties, petition is disposed of finally.

3. This is a petition that impugns order dated 30.01.2025 passed by the Revenue Minister acting in revisional jurisdiction under Section 192 of the Goa Land Revenue Code, 1968. The main contention raised in the petition is that the order challenged before the Revenue Minister dated 13.02.2024 was passed by the Superintendent of Settlement and Land Records with an appeal filed under Section 188 under Clause E of Sub-Section 1 of Section 188 of the Code, against which the only remedy available was that of an appeal under Clause C of Sub-Section 2 of Section 188 of the Code. It was submitted that the Respondents have instead proceeded to file a revision under Section 192 of the Code which is not permissible and not maintainable, since under the second proviso of Section 192, such revision could not be filed before the expiry of the appeal period or within the pendency of an appeal. The learned Counsel for the Petitioner submits that this would mean that where an appeal is provided under the Code, availing of remedy of revision will be barred, and hence, the impugned order passed by the Revenue Minister is without jurisdiction.

4. The original order in the revenue proceedings was passed under Section 96 of the Code, where the Respondents sought a mutation of their names in the survey records claiming that they had a title to the property. This application was filed before the Inspector of Land Records and was rejected on 18.01.2019. Against this order, the Respondents preferred an appeal under Clause E of Sub-Section 1 of

Section 188 before the Appellate Authority, which was the Superintendent of Settlement and Land Records, which appeal came to be dismissed on 13.02.2024.

5. Clause D of Sub-Section 2 of Section 188 clearly provides for a second appeal, if the first appeal in a proceeding was filed under Clause E or F of Sub-Section 1 of Section 188 to the Administrative Tribunal of Goa. There is, therefore, a second appeal provided as a remedy against the order passed by the Superintendent of Settlement and Land Records which is dated 13.02.2024.

6. Considering that the second proviso to Section 192 (revisional power) creates an embargo for calling of the records for a proceeding pending before any Revenue Officer or before the expiry of the appeal period, the provision itself would mean that the revisional power could be exercised on an application by a party only after exhausting the remedy of appeal, which, in this case has been provided to the Administrative Tribunal. In this view of the matter, considering the provision of Section 192, the remedy available to the Respondents was by way of filing a second appeal to the Administrative Tribunal and the revision application filed before the Minister of Revenue was, therefore, not maintainable. The impugned order dated 30.01.2025 is, therefore, without jurisdiction and is quashed and set aside.

7. At this stage, learned Senior Advocate Mr. J.E. Coelho Pereira for the Respondent submits that the revision application before the

Revenue Minister had been otherwise filed within the period of limitation provided for under Section 189, if he were to prefer the second appeal to the Administrative Tribunal. He submits that the Respondents would be gravely prejudiced if the Tribunal were not to consider the second appeal, if filed by them against the order dated 13.02.2024 of the Superintendent of Settlement and Land Records.

8. Considering the fact that the revision application was otherwise filed within the period of limitation prescribed under Section 189 of the Code for filing the second appeal, this perhaps, could be one of the grounds to be considered by the Tribunal, if the second appeal is now lodged before it with an application for condonation of delay, to decide such an application. Learned Senior Counsel submits that the Respondents would present a second appeal to the Tribunal with an application for condonation of delay within two weeks from today. If such a second appeal is in fact filed with an application for condonation of delay, the Tribunal may consider the application in the light of the observations made herein.

9. Rule is made absolute in terms of prayer clause (b) of the petition with the observations made hereinabove. No costs.

VALMIKI MENEZES, J.