



Sonam

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 748 OF 2024**

1. Mr. James C. D'Mello,
59 years of age,
Son of late Manuel D'mello,
Married, Business, Indian National,
And his wife,
2. Mrs. Lucy D'Mello,
57 years of age,
Wife of Mr. James C. D'mello,
Married, Housewife, Indian National,
Both resident of H. No. 6/260,
Khobra Waddo, Calangute,
Bardez, Goa.

... Petitioners***Versus***

1. Mr. Rohit Bras De Sa,
Major of age,
Married, Advocate, Indian National,
R/o Z-7, Pelican Apartments,
Fr. Agnelo Road,
Panaji, Goa.

...Respondents

2. Mr. Arun Bras De Sa,
Major of age,
Married, Advocate, Indian National,
R/o Z-7, Pelican Apartments,
Fr. Agnelo Road,

Panaji, Goa.

Mr. Sarvesh Sawant, Advocate for the Petitioners.

Mr. Nigel Da Costa Frias with Mr. Savio Misquita, Advocate for Respondent No.1.

Mr. Shivdatt P. Munj, Additional Government Advocate for Respondent No. 3.

CORAM : VALMIKI MENEZES, J.

DATED : 9TH JULY, 2025.

ORAL JUDGMENT:

1. Heard learned Advocate for the parties.
2. Rule. Rule is made returnable forthwith; at the request of and with the consent of the learned Advocates for the parties, the matter is finally heard and disposed of. Learned Advocate Mr. Sarvesh Sawant waives service for the Petitioners, learned Advocate Mr. Savio Misquita waives service for Respondent Nos. 1 and 2 and, learned Additional Government Advocate Mr. Shivdatt P. Munj waives service for Respondent No. 3.
3. The order impugned in this petition is dated 22.08.2023, passed by the Deputy Collector, Bardez in Mundkar Case No. DC/MND/REV/BAR-I/8/2023. The original proceeding filed by the Petitioner is for a declaration of his rights as a Mundkar in Case No. MND/SR/Calangute/1/2018. In this proceeding,

Respondent Nos. 1 and 2, who are arrayed as Bhatkar of the property, raised a preliminary objections. The preliminary objection was to the effect that the Petitioner could not claim the right of being Mundkar, since he was not the original occupant of the house of Santana Cardozo and his wife.

4. The preliminary objections filed in the form of a reply dated 20.12.2019 and 20.08.2019 were rejected by the Mamlatdar against which the aforesaid Revision Application was preferred. The Deputy Collector, admittedly, without hearing the Petitioner/Mundkar, has passed the impugned order. By the impugned order, the Deputy Collector has quashed the order of the Mamlatdar dated 22.08.2022 (rejecting the preliminary objections) and has practically allowed the Revision Application without hearing the Petitioner herein. Though the order states so, in the same breath, the order also posts the matter for further hearing on 17.10.2023.

5. Considering that the impugned order dated 15.09.2023, passed by the Deputy Collector has practically disposed of the Revision Application without hearing the Petitioner, and the same is passed without following the principles of natural justice, the matter also decides the preliminary objection on merits without considering any of the material on record. For these reasons, the impugned order dated 15.09.2023, cannot be sustained and is consequently quashed and set aside.

6. As a consequence, the Deputy Collector shall now hear the Revision Application i.e. DC/MND/REV/BAR-I/8/2023 on its own merits and decide the Revision Application within three months from the date of this order. Whilst deciding the Revision finally, the Deputy Collector may also decide the prayer of Respondent Nos. 1 and 2 as to whether the proceeding before the Mamlatdar is required to be stayed. This has reference to prayer clause (b) of Respondent Nos. 1 and 2.

7. Parties shall appear before the Deputy Collector, Bardez, Goa on 28.07.2025 at 3.00 p.m.

8. Rule is made absolute in the above terms.

9. The petition stands disposed of in the above terms and with the above observations.

VALMIKI MENEZES, J.