



(910) WP 832.2023

Sonam

IN THE HIGH COURT OF BOMBAY AT GOA

**WRIT PETITION NO. 832 OF 2023
WITH
CIVIL APPLICATION NO. 134 OF 2023**

Shri. Govind Balsu Dessai,
Son of late Balsu Govind Dessai,
Residing at House No. 260,
Delem, Canacona, Goa,
Through his duly constituted Attorney
And his wife Smt. Vinal Govind Dessai,
Aged 44 years, occupation Housewife,
Residing at House No. 260, Delem,
Canacona, Goa. ...Petitioner/Applicant.

Versus

1. State of Goa,
Through its Chief Secretary,
Having his Office at Secretariat,
Porvorim, Goa, 403521.
2. Director of Settlement and Land Records,
Government of Goa, Panaji-Goa, 403 001.
3. Shri Manjunath Yeshwant Naik Gaonkar,
Son of late Yeshwant Naik Gaonkar,
Of major age, Occupation Retired from Service,
Residing at House No. 209,

Delem, Canacona, Goa

4. Shri Narayan Yeshwant Naik Gaonkar,
Son of Late Yeshwant Naik Gaonkar,
Of major age, Occupation Retired from Service,
Residing at House No. 209, Delem,
Canacona - Goa
5. Shri. Babu Raghoba Naik Gaonkar,
(Since deceased) through legal representative
(a) Smt. Shevtu alias Mira Babu Naik Gaonkar,
(since deceased) through legal representative

b) Shri. Anand Babu Naik Gaonkar,
Son of Late Babu Naik,
Aged 40 years,
R/o Near Ramnath Temple,
Asnoti Karwar Uttar Karnataka, 581 317.
6. Shri. Vithoba Raghoba Naik Gaonkar,
(Since deceased) through legal representative,
(a). Smt. Navjyot Raghoba Naik Gaonkar,
R/o Delem, Canacona-Goa.
7. Shri. Dhananjay N. Naik Gaonkar,
(Since deceased) through legal representative

a. Smt. Mogrem Dhananjay N. Naik Gaonkar,
Aged 81 years,
R/o Clo Jayu Dessai,
New Vadem, Near Government Primary School,
Vasco Goa 403 802.

Deleted in terms of
order dated
11.07.2024

- b. Smt. Jayu Dhananjay N. Naik Gaonkar,
Daughter of late Dhananjay N. Naik Gaonkar,
Alias Prabhuavati Prabhakar Dessai,
Wife of Prabhakar Dessai,
Aged 52 years,
R/o C/o Jayu Dessai,
New Vadem, Near Government Primary School,
Vasco Goa 403 802.
 - c. Shri Prabhakar Dessai,
Aged 55 years, Jayu Dessai New Vadem,
Near Government Primary School,
Vasco Goa 403 802.
 - d. Smt. Durmila Dhananjay N. Naik Gaonkar,
Daughter of Late Dhananjay N. Naik Gaonkar
alias Ravita Rohidas FalDessai,
Aged 54 years,
R/o C/o Jayu Dessai,
New Vadem, Near Government Primary School,
Vasco Goa 403802
 - e. Shri Rohidas Fal Dessai,
Aged 58 years,
R/o C/o Jayu Dessai,
New Vadem, Near Government Primary School,
Vasco Goa 403802.
8. Smt Mayawati Balu Naik Goankar
(Since deceased) Through legal representative,
- a. Shri. Govind B. Dessai,
R/o Delem Canacona-Goa
- } Deleted as per order
dated 11.07.2024

- b. Mrs Vinal Govind Desai,
R/o H. No. 226, Delem,
Canacona-Goa.
- c. Mrs Mina Prashant Gaykar
- d. Mr. Prashant Janardhan Gaykar,
Both R/o G-3, Gangotri Apt.,
B. B. Borkar Road, Alto, Porvorim,
Bardez – Goa.
- e. Mrs. Ragini alias Pratiksha Pramod Sawant,
- f. Mr. Pramod Yeshwant Sawant,
Both R/o Neha Apt. 2 Joshi Both Kamat Retreat,
Near Chapel, Durgawadi, Taleigao,
Panaji Goa.
- g. Mrs. Seema Sitaram Gawas
- h. Mr. Sitaram Bhikaji Gawas,
Both R/o AG-2, Housing Board Colony,
Durgawadi, Taleigao, Panaji - Goa.
- 9. Shri Dattaram Narayan Naik Gaonkar,
(Since deceased) through legal representatives
 - a. Smt. Seeta Dattaram Naik Gaonkar,
R/o Near Canacona Police, Station,
Mastmol, Canacona - Goa 403 702.
 - b. Smt. Ankita Ankush Desai,
Wife of Ankush Katu Desai,

R/o H. No. 74, Kindlem,
Canacona - Goa 403 702.

- c. Smt. Ankita Ankush Desai,
Wife of Ankush Katu Desai,
R/o H. No. 74, Kindlem,
Canacona - Goa 403 702.
- d. Smt. Pratiksha Pravi Dessai,
Wife of Pravi Dessai,
R/o H. No. 2148, Marod Parricotto,
Cuncolim, Salcete Goa 403 703.
- e. Shri. Pravi Pandurang Dessai,
Son of Pandurang Dessai,
R/o H. No. 2148, Marod Parricotto,
Cuncolim, Salcete Goa 403 703
- f. Smt. Shilpa Jayesh Gaonkar,
Wife of Jayesh Shashi Gaonkar,
R/o Pirla, Quepem, Goa 403705. ... RESPONDENTS

***Mr. S. N. Joshi with Ms. Swapna Joshi, Advocates for the
Petitioner.***

***Mr. Siddharth Samant, Additional Government Advocate for
Respondent Nos. 1 and 2.***

***Mr. Anirudh Bipin Sarkar, Advocate for the Respondent No.
4.***

Mr. Abhishek Sawant, Advocate for the Respondent No. 6(a), 7(b) to 7(e), 8(c) to 8(f).

CORAM:- VALMIKI MENEZES, J.

DATED :- 16TH JANUARY, 2025.

ORAL JUDGMENT:

1. Heard learned Advocates for the parties.
2. Rule.
3. Rule is made returnable forthwith with the consent of the parties.
4. Mr. Siddharth Samant, learned Additional Government Advocate waives service on behalf of Respondent Nos. 1 and 2, Mr. Anirudh Bipin Sarkar, learned Advocate waives service on behalf of the Respondent No. 4 and Mr. Abhishek Sawant, learned Advocate waives service on behalf of Respondent No. 6(a), 7(b) to 7(e), 8(c) to 8(f).
5. This petition takes exception to the order dated 23.08.2023 passed by the Minister of Revenue/Revisional Authority, setting aside the order dated 27.01.2022 passed by the Superintendent of Survey and Land Records, Margao in a

Revenue Proceeding under the Goa Land Revenue Code, 1968 (LRC), directing the Superintendent of Survey and Land Records, Margao to decide the case afresh and to pass a speaking order on the application for condonation of delay, filed by the Respondent Nos. 3 and 4.

6. The background facts for arriving at the decision of this petition are follows:

(a) The Respondent Nos. 6(a), 7, 7(b), 7(c), 7(d), 8(a), 8(d), 8(e), 8(f) and the Petitioner filed a revenue proceeding before the Aval Karkun (AK), being objections in the DC case bearing No. 299/Nag-Palolem. This proceeding was taken up by the AK who passed an order dated 28.12.1988 holding that the name of one Dattaram Narayan Naik be deleted from the land under Survey No. 241/3 of village Nagorcem/Palolem and names of Babu Raghoba Naik Gaonkar, Vithoba R. Naik Gaonkar, Dhananjay N. Naik Gaonkar and Mayavati Babu Naik Gaonkar be recorded in the occupant's column. The order of the AK came to be challenged by the Respondent Nos. 3 and 4 before the Superintendent of Survey and Land Records, Margao, claiming that the Appeal was filed under Section 188(1)(E) of

the Code. The Superintendent of Survey and Land Records, Margao has allowed the application for condonation of delay filed by Respondent Nos. 3 and 4 against which the Petitioner filed an Appeal bearing No. 2/8/5/2022-RD before the Revenue Minister in terms of provisions under Section 188 of the Land Revenue Code. The Revenue Minister has now set aside the order of the Superintendent of Survey and Land Records, Margao and remanded the matter back to the Superintendent of Survey and Land Records, Margao for the fresh decision on the application for condonation of delay. It is this order that is impugned before this Court.

6. The point for determination which would fall for decision is whether the Superintendent of Survey and Land Records, Margao would be the Appellate Authority for the purpose of hearing a challenge to the order passed by the AK, acting as a Survey Officer.

7. In terms of Section 4 of the Land Revenue Code read with provision of Section 10 thereof, subordination of various officers under the code is clearly specified. Under Rule 6 of the Goa Land Revenue (Records of Rights and Registration of Cultivators Rule, 1969), objections are to be received to

the draft Index of Lands in Form III and these objections are required to be decided by the AK as a survey officer. In terms of the subordination provided under Land Revenue Code, all orders from the Survey Officer under Section 188(E) would lie to the Director of Settlement and Land Records or to a Revenue Officer notified to be the Appellate Authority. Thus, clearly from the subordination set out by the Code, an Appeal from the AK as a Survey Officer would never lie to the Superintendent of Survey and Land Records, Margao as has been filed by the Respondent Nos. 3 and 4 in the present proceedings.

8. The Revenue Minister, as a Revisional Authority has set aside the order granting condonation of delay by the Superintendent of Survey and Land Records, Margao and rightly so, since the order passed by the Superintendent of Survey and Land Records, Margao is wholly without jurisdiction in terms of the hierarchy provided under the Act. The only Authority which has powers to decide the matter would be the Director of the Settlement of Land Records. The Revenue Minister did not stop at that but, remanded the matter back to the Superintendent of Survey and Land

Records, Margao to decide the application for condonation of delay, even though the Superintendent of Survey and Land Records, Margao has no jurisdiction to hear the application for condonation of delay. To that extent, the impugned order passed by the Minister of Revenue is contrary to the Code and is required to be quashed and set aside.

9. Consequently, the petition is allowed. The impugned order dated 23.08.2023 of the Minister of Revenue as Revisional Authority is quashed and set aside to the extent that it remands the matter back to the Superintendent of Survey and Land Records, Margao, who has no jurisdiction to hear the Appeal or the application for condonation of delay.

10. Needless to state, if the Respondent Nos. 3 and 4 desire to file an Appeal along with an application for condonation of delay before the appropriate Appellate forum, who is Director of Settlement of Land Records, and such an application for condonation of delay shall be heard and decided on its own merits.

11. Rule is made absolute in the aforementioned terms. No costs.

12. All pending Civil Applications shall stand disposed of in view of the disposal of this petition.

VALMIKI MENEZES, J.