



Sonam

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 507 OF 2025**

Mr. Pedro Dias (Since Deceased.)
Through Legal Representatives:

1. (a) Mrs. Emercian Pango,
82 years of age,
Widow of Late Pedro Dias.
1. (b) Mr. Joao Rosario Dias
56 years of age,
Son of Late Pedro Dias
1. (c) Mrs. Cristalina Dias
48 years of age,
Wife of Mr. Joao Rosario Dias.
1. (d) Mr. Socorro Dias,
48 years of age,
Son of Late Pedro Dias.
1. (e) Mrs. Milly Miranda,
44 years of age,
Wife of Mr. Socorto Dias
1. (f) Mr. Nelwin Dias,
45 years of age,
Son of Late Pedro Dias
1. (g) Mrs. Lidia Colaco
40 years of age,
Wife of Mr. Nelwin Dias.
All Residents of Porasao,

Nuvem, Salcete - Goa,
Salcete, Margao Goa.

... Petitioners

Versus

1. Mrs. Sarita Kapoor
Wife of Sunil Kapoor
Age 52, Housewife,
Resident of Plot No 5,
Behind Chowgule College
Fatorda, Margao Goa.

2. Mr. Alexendre Moraes,
Resident of Garden Cottage,
Rua Bernade Da Costa,
Margao, Goa.
(Since deceased) represented by

2(a) Ana Maria Moraes
Widow of Antonio Manuel
Alexendre Moraes
Major of Age,
Resident of Garden Cottage,
Rua Bernade Da Costa, Margao Goa.

2(b) Armando Rosario Ornelas Moraes
Major of Age, Son of Antonio Manuel
Alexendre Moraes;
And his wife

2(c) Mrs. Connie Moraes,
Wife of Armando Moraes,
Both residents of Garden Cottage,
Rua Bernade Da Costa, Margao Goa.

... Respondents

Mr. Jagannath Mulgaonkar with Ms. Fauzia Pathan and Ms. R.
Prabhudessai, Advocates for the Petitioners.

Mr. Sudesh Usgaonkar, Senior Advocate with Ms. Marie Rosette Pereira, Advocate for the Respondents.

CORAM : **VALMIKI MENEZES, J.**
DATED : **17TH DECEMBER, 2025.**

ORAL JUDGMENT:

Registry to waive office objections and register the matter.

2. Heard learned Advocates for the parties.
3. Rule. Rule is made returnable forthwith; at the request of and with the consent of learned Advocates for the parties, the matter is finally heard and disposed of. Learned Advocate Mr. Jagannath Mulgaonkar, waives service on behalf of the Petitioners and learned Senior Advocate Mr. Sudesh Usgaonkar waives service on behalf of the Respondents.
4. This petition impugns the order dated 15.10.2024 passed by the Administrative Tribunal of Goa in Mundkar Revision Application No. 10/2021, which is presently pending before the Administrative Tribunal. The impugned order sets aside abatement of the Mundkar Appeal No. 6/2010, which was dismissed by Deputy Collector, Salcete vide order dated

05.01.2021. the order dated 05.01.2021, passed by the Deputy Collector, Salcete upholds the order dated 24.06.2008 passed by the Mamlatdar in a Purchase Proceedings under Section 16, appointing a Surveyor to demarcate the area around the dwelling house claim by the Petitioner herein.

The Petitioner herein are the Legal Representative of one Pedro Dias, who was deceased on 15.04.2017, who was declared as a Mundkar of the dwelling house. The declaration was granted against the original Bhatkar, one Mr. Alexandre Moraes, who himself was deceased way back in the year 1987, even prior to the declaration proceedings having been disposed of.

5. The Administrative Tribunal, no doubt sets aside the abatement of the Appeal before the Deputy Collector, Salcete but the order obviously has been passed without jurisdiction since the Administrative Tribunal was seized of a Revision Application filed by the Respondents herein to challenge an order in Appeal passed merits; the Administrative Tribunal ought to have set aside the order of the Deputy Collector, Salcete on the sole ground that there was infact an application filed to bring Legal Representatives on record at the behest of the Petitioner herein on 01.12.2020 along with the Vakalatnama

in favour of the Advocate to represent the Legal Representatives of deceased Pedro Dias.

The Administrative Tribunal has infact taken cognizance of all these facts but has transgressed the jurisdiction vested in it by declaring that the abatement of the Appeal was set aside, when all it could do was to set aside the impugned order dated 05.01.2021, passed by the Deputy Collector, Salcete and remanded the matter back to the Deputy Collector, Salcete for deciding the Appeal on its merits. To that extent, the impugned order must be set aside.

6. The question before me now is whether on setting aside the impugned order of the Administrative Tribunal dated 15.10.2024, whether it would be appropriate that the Tribunal now decides the Revision Application before it on merits, having already set aside the order of abatement, or whether the matter should be remanded, as should have been done by the Tribunal, back to the Deputy Collector, Salcete for adjudicating the Appeal.

7. In my opinion, this would be a fit case to exercise supervisory jurisdiction vested in this Court under Article 227 of the Constitution of India, as a consequence of the setting aside of the abatement of the Appeal, to direct the Tribunal to

treat the Revision Application as disposed of. The Tribunal ought to have set aside the order of the Deputy Collector, Salcete dated 05.01.2021, in view of the setting aside of the abatement of the Appeal. In this view of the matter, I deem it appropriate to quash and set aside the order dated 05.01.2021 of the Deputy Collector, Salcete in view of the fact that the application for bringing on record Legal Representative of deceased Pedro Dias dated 01.12.2020, being already on record of the Deputy Collector, Salcete with the Advocate's Vakalatnama for the Legal Representatives. In view of this fact, Collector's order dated 05.01.2021, now stands quashed and set aside. The Deputy Collector, Salcete, shall proceed to incorporate the names of the Legal Representatives of deceased Pedro disclosed in para 2 of the application dated 01.12.2020, pending before it and on completing this cause title, shall proceed to hear Mundkar Appeal No. 6/2010 on merits and disposed of the same preferably within a period of four months from today, i.e. by 15.04.2026. This is so since the abatement of the Appeal is considered to be set aside in view of the pending application dated 01.12.2020 and in view of the powers vested in the authority under Sub Rule 13 of Rule 14 of the Mundkar Protection and Eviction Rule, 1977.

8. In view of the order of the Deputy Collector, Salcete, dated 05.01.2021, having been set aside by this order, the Revision Application bearing No. 10/2021, before the Administrative Tribunal shall be treated as disposed of. The Administrative Tribunal shall act on an authenticated copy of this order being placed on its record.

9. Needless to state that the order dated 15.10.2024, passed by the Administrative Tribunal on application dated 10.04.2021, filed by the Respondent/Applicant before the Revisional Authority/Administrative Tribunal, deleting the name of Alexandre Moraes (who was deceased in the year 1987), shall not come in the way of the Petitioners to take recourse in correcting the proceedings if they so advised.

10. Rule is made absolute in the above terms. The petition stands disposed of.

VALMIKI MENEZES, J.