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IN THE HIGH COURT OF BOMBAY AT GOA.

CRIMINAL WRIT PETITION NO. 47 of 2026

FATU MADHU SHETGAONKAR AND
ANR.

...PETITIONERS

~ VERSUS ~

M/S TURIN RESOR PRIVATE LTD. THR ITS
AUTHORIZED PERSON MR CHOTTAN
KUMAR MANDAL AND 7 ORS.

...RESPONDENTS

APPEARANCES:

for the Petitioner.

*Mr Yogesh Nadkarni, Advocate with
Mr Jay Mathew, Ms Simran Khadilkar
and Mr Varadh Deshprabhu,
Advocates.*

for the Respondent Nos. 1
to 3

*Mr Shivan Desai and Ms Tahira
Menezes, Advocates.*

for the Respondent No.4

*Mr A. F. Diniz, Senior Advocate with
Mr Nehal Govekar and Mr Harshal
Desai, Advocates.*

for the Respondent Nos.6
to 8

*Mr Preetam Talaulikar, Addl. Public
Prosecutor.*

CORAM : AMIT S. JAMSANDEKAR, J.

Dated : 16th April 2026.

P.C.

1. Heard Mr. Nadkarni, the learned Counsel for the Petitioner.
2. By the present Petition, the Petitioner challenges the order dated 19.02.2026 passed by the learned Deputy Collector and SDM, Pernem (hereinafter referred to as the “Impugned Order”).
3. It is submitted by the Petitioner that the learned Magistrate has purported to exercise powers under Sections 152 and 163 of the Bharatiya Nagarik Suraksha Sanhita, 2023, despite the said provisions not conferring adjudicatory jurisdiction to conclusively determine disputed civil rights or grant final relief. There is a dispute as to whether the subject property is public property or private property, and therefore, the applicability of the provisions of Section 152 is questioned by Mr Nadkarni.
4. The Petition is opposed by the learned Counsel appearing for the Respondents.

5. Without going into the merits of the matter or commenting upon the legality of the Impugned Order, and with the consent of the parties, the following workable order/directions are passed:
- (i) The impugned order dated 19.02.2026 shall be treated as a conditional order for the purpose of Section 152 of the BNSS;
 - (ii) Accordingly, the learned Magistrate shall proceed strictly in accordance with the provisions of Chapter IX (B) of the Bharatiya Nagarik Suraksha Sanhita, 2023 in the proceedings;
 - (iii) The learned Magistrate shall decide the proceedings within a period of 45 days from today;
 - (iv) It is clarified that the learned Magistrate shall not adjudicate any disputed civil rights in respect of the land/any right as may be contended by the rival parties in the proceedings initiated under Section 152 of the BNSS;
6. In view thereof, the Petitioners, **without prejudice to their rights and contentions**, shall keep the gate open so as to provide access to the Respondents to Survey No. 196A/4 of Village Morjim.
7. In view of the aforesaid arrangement, the Respondents make a statement that they shall not claim any equity on the basis of the

statement made by the Petitioners. The statement made by the Respondents is accepted as an undertaking to this Court.

8. The statement of the Petitioners shall operate only during the pendency of the proceedings before the learned Magistrate. In the event the parties initiate civil proceedings, the same shall be decided independently, in accordance with law, and without being influenced by the present workable arrangement.
9. In view thereof, the operative part of the conditional order (a) passed under Section 152 of the Bharatiya Nagarik Suraksha Sanhita, 2023 shall remain stayed until the hearing and final disposal of the proceedings before the learned Magistrate. The conditional order (a) under Section 152 of BNSS reads thus:-

(a)Opponents are directed to remove the steel gate/barrier on the 6 m-wide tar road passing through Sy. No. 196A/4 of village Morjim Taluka Pernem forthwith within one hours from receipt of this order, failing which Mandrem Police Station shall execute removal using force if necessary, with costs recoverable from Opponents. If required assistance from the Fire Department to be obtained. The impugned order is challenged by the Petitioner on various grounds.

10. Conditional Order (b) and (c), which is passed under Section 163 of the Bharatiya Nagarik Suraksha Sanhita, 2023, stand modified in terms of the workable arrangement recorded hereinabove.
11. The Petition stands disposed of in the aforesaid terms.

[AMIT S. JAMSANDEKAR, J.]