

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO. 34 OF 2018

**THE GOA FOUNDATION, THR. ITS
SECRETARY, DR. CLAUDE ALVARE.,** ... Petitioner

Versus

MAMLATDAR OF PERNEM AND 10 ORS., ... Respondents

Ms. Norma Alvares and Ms. A. Gode, Advocates for the petitioner.

Shri S. Dhargalkar, Addl. Govt. Advocate for the respondent nos.1,2, 4 to 9.

Mr. Virendra Tulzapurkar, Senior Advocate along with Mr. Amit Jamsandekar, Mr. Sidhartha Srivastava and Mr. Sunil Sirsat, Advocates for the respondent No.11.

Coram:- M. S. SONAK &
DAMA SESHADRI NAIDU, JJ.

Date:- 20th February, 2020

P.C.

Heard Ms.Norma Alvares, learned Advocate for the petitioner, Shri S. Dhargalkar,learned Addl. Govt. Advocate for the respondent nos.1,2, 4 to 9 and Mr. Virendra Tulzapurkar, learned Senior Advocate for the respondent no.11.

2. By the present petition, the petitioner challenges order dated 19.2.2015 made by the Deputy Collector, Pernem in relation to the property which is described in paragraph 3 of the petition. There is a challenge to the decision of Goa Coastal Zone Management Authority(GCZMA) taken in its 217th Meeting held on 4.12.2019 and 5.12.2019.

3. So far as the challenge to the order dated 19.2.2015 is concerned, the petitioner has alternate and efficacious remedy under Goa Land Revenue Code.

4. Shri Tulzapurkar, learned Senior Counsel appearing on behalf of respondent no.11 states that respondent no.11 will not raise any issue of locus standi or limitation should the petitioner avail of such alternate remedy.

5. According to us, since the petitioner has alternate and efficacious remedy available under the Land Revenue Code itself, it is only appropriate that they avail of the same instead of directly instituting the present petition. If such appeal is instituted by the petitioner within four weeks from today, then, the Appellate Authority to entertain the said appeal and dispose of the same on its own merits and in accordance with law, without going into the issue of locus standi and/or limitation which defences have been specially given up by the respondent no.11. The Appellate Authority to endeavour to dispose of such appeal expeditiously.

6. In so far as decisions of GCZMA dated 4.12.2019 and 5.12.2019 are concerned, again, we find that the petitioner has alternate and efficacious remedy available under National Green Tribunal Act, 2010. Accordingly, we relegate the petitioner to avail such alternate remedy rather than entertain the challenge at this stage itself. We are further informed that there is already stop work order dated 10.12.2018 issued to respondent no.11,

which is in operation. The GZCMA was to reconsider the entire matter after the receipt of report from National Centre for Sustainable Coastal Management. We are informed that such report has already been submitted. This is another reason why, we do not wish to entertain the present petition at the present stage.

7. The Petitioner, without seeking any specific prayer has raised certain issue relating to conversion of tenanted land. Since, by virtue of stop work order, no construction or development is presently being undertaken at site, again, we do not feel appropriate to go into this issue at this stage in the present petition. However, we clarify that we have not gone into such issue and therefore, rights and remedies if any of all concerned are specifically kept open.

8. With the aforesaid liberties, we dispose of present petition.

DAMA SESHADRI NAIDU, J.

M. S. SONAK, J.