

Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.97/2024

1. MR. GANESHYAM GOVIND
MADKAIKAR, Son of Late
Shri. Govind Madkaikar, Age 58
Years, R/o. H. No.807,
Gaushbhat, Carambolim, Tiswadi-
Goa 403110

2. MR. GOVIND KELU GAUDE
MADKAIKAR, S/o Kelu Gaude
Madkaiker, Aged 62 Years, R/o.
H.No.830, Ximem, Carambolim,
Tiswadi, North Goa 403110.

... PETITIONERS

Versus

1. STATE OF GOA, through it's
Chief Secretary, Porvorim-Goa.

2. THE MAMLATDAR OF
TISWADI TALUKA, Panaji-Goa.

3. DHADO KHAZAN TENANTS
ASSOCIATION, having office at
Dhadyar, Corlim, Goa, Through
its Chairman Mr. Nazareth
Demelo, at Dhado Carambolim,
Tiswadi-Goa.

... RESPONDENTS

Mr Sagar Dhargalkar, Advocate for the Petitioner.

Mr Manish Salkar, Government Advocate for Respondents No.1 and 2.

Mr Arjun Naik, Advocate for Respondent No.3.

**CORAM: M. S. SONAK &
BHARAT P. DESHPANDE, JJ.**

DATED: 20th FEBRUARY 2024

ORAL JUDGMENT: (Per M. S. Sonak, J.)

1. Heard Mr Sagar Dhargalkar for the petitioner, Mr Manish Salkar, learned Government Advocate for respondents no.1 and 2 and Mr Arjun Naik for respondent no.3.
2. Rule. The Rule is made returnable immediately at the request of and with the consent of the learned counsel for the parties.
3. The petitioner's main grievance is that the complaints made by him *inter alia* with regard to the functioning of the third respondent are not being disposed of or properly attended to by the Mamlatdar, i.e. respondent no.2 herein.
4. Mr Salkar learned Government Advocate, has placed on record an order dated 14.02.2024 made by the Mamlatdar of Tiswadi Taluka. This order is mainly directed to the third respondent, and the same reads as follows:-

“ No. MAM/TIS/AK-I/TA/07/2024/580

Date: 14/02/2024

ORDER

WHEREAS, the undersigned is in receipt of Complaint dated 08.02.2024 from Mr. Ganeshyam Govind Madkaikar, R/o H. No. 807, Gaushbhat, Carambolim, Tiswadi. Goa - 403001, indicating illegal submerging of agriculture fields by the lessee in collusion with chairman and other managing committee member of the Dhado Khazan Tenants Association by illegally interfering with the sluice gate doors to allow the river saline water to enter fields thereby destroying the livelihood. In view of which the tenants are unable to cultivate the fields.

AND WHEREAS the Talathi vide report dated 09/02/2024 has submitted that during inspection it is noticed that the fields are filled with saline water and the doors of the sluice gate are damaged. Further, the Talathi also submits that the bund is cracked/damaged at several places thus resulting in seepage of water from the bunds during high tides.

Now therefore, I Shri. Anant R Malik the Mamlatdar of Tiswadi Taluka, Panaji - Goa in exercise of powers vested in my hand under Rule 10 of Goa, Daman & Diu Agricultural Tenancy (Discharge of Joint Responsibility of Tenants) Rules 1975, hereby direct Managing Committee of the Dhado Khazan Tenants Association to release the saline water from the fields within 24 hours. Accordingly, carry out repair of the bund and sluice gate; maintain proper operation of the sluice gates by keeping constant vigil at the site of water level, in order to avoid further damage to the fields. The Managing Committee is hereby directed to submit the action taken report to this office on priority.

Further the Managing Committee and Lessee will be held liable if fields are inundated and it will be considered failure on part of the Managing Committee. Strict action will be initiated against the Managing Committee and Lessee of the said Tenant Association, in accordance with law.

Given under my hand and seal of this office on this 14th day of February 2024.

*Sd/-
(Anant R. Malik)
Mamlatdar of Tiswadi Taluka
Panaji-Goa”*

5. In the context of the above order, on instructions, Mr Arjun Naik, learned counsel for the third respondent, states that the water that has entered into the fields will be drained out within two days, and a necessary compliance report will be filed with the Mamlatdar. This statement is accepted. The third Respondent must act accordingly. A copy of the compliance report must also be furnished to the petitioner.

6. Mamlatdar's order dated 14.02.2024, apart from directing the third respondent to drain out the saline water from the fields within 24 hours, had directed the third respondent to carry out repairs to the bund and sluice gate and maintain proper operation of the sluice gate by keeping a constant vigil at the site so that there is no further damage to the agricultural fields.

7. Mr Arjun Naik, on instructions, states that the Soil Conservation Department has already prepared an estimate for

the repairs of the bund. He states that the Soil Conservation Department has estimated the expenses at ₹14,52,793/-. Mr Naik submits that presently the Mamlatdar has attached the bank accounts of the third respondent, and though there is an amount of ₹70 lakhs in this account, the third respondent is not able to access this amount and carry out repairs to the bund and the sluice gate.

8. Mr Naik, on instructions, states that if funds are released, the third Respondent undertakes to carry out the bandh and sluice gate repairs within a month from today. He states that thereafter, proper vigil will be maintained by the third respondent to prevent any damage to the bund and the sluice gate and, consequently, any further damage to the agricultural fields.

9. Mr Salkar states that since the amount is estimated by the Soil Conservation Department of the Government of Goa, the Mamlatdar would release this amount to the third respondent on the condition that this amount is utilised exclusively for carrying out repairs to the bund and the sluice gate and no other purposes.

10. Accordingly, the third respondent, consistent with its above undertaking, must carry out repairs to the bund and the sluice gate and complete this work within a month from today without giving any excuses. The Mamlatdar should depute a suitable officer like Talathi, etc., to oversee the repair works and to ensure that the repairs are carried out properly. The Mamlatdar should also release an amount of ₹15 lakhs, if necessary, in installments,

to enable the third respondent to complete the repair works. The Mamlatdar, Talathi and the third respondent must ensure that the works of repairs to the bund and the sluice gate are carried out within four weeks from today. This shall now be the joint responsibility of the three parties.

11. Mr Dhargalkar states that the petitioner has certain other grievances about which complaints have been made to the Mamlatdar. He points out that these complaints are pending. The Mamlatdar must dispose of these complaints within two months from today. This is the outer limit, and the Mamlatdar must try to dispose of these complaints as expeditiously as possible. Mr Arjun Naik states that a reply has been filed and if any additional reply is necessary, the same would be filed within one week.

12. If the Mamlatdar finds that the third respondent's reply is not satisfactory, the Mamlatdar must proceed to make necessary orders in accordance with the law. There is no necessity to issue directions for filing a better or more satisfactory reply. Mr Arjun Naik states that the third respondent will cooperate with the Mamlatdar for expeditious disposal of the complaints. The Mamlatdar should also not grant any unnecessary adjournments in this matter. The Mamlatdar must dispose of the complaints by giving the petitioner and the third respondent the opportunity of hearing.

13. Mr Dhargalkar states that the third respondent's Managing Committee term has already ended in October 2023. The fact that we have accepted the undertakings from the third respondent for completing the above works does not mean we have granted any kind of recognition to the third respondent.

14. Mr Salkar states that very shortly, the elections will be announced, and the same will also be held in accordance with the law. After the conclusion of the term, elections must be held without delay. The Mamlatdar must ensure this.

15. The Rule is disposed of in the above terms without any order for costs.

16. All concerned must act on an authenticated copy of this order.

BHARAT P. DESHPANDE, J.

M. S. SONAK, J.