

Meena

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 754 OF 2021 (F)

Mr. Kashinath Tima Dhavalikar alias Gaude
s/o. Tima Gaude,
61 years of age, Indian National,
R/o. H. No.116, Dhavli, Queula,
Ponda Goa.

...Petitioner

Versus

- 1 Village Panchayat Queula,
Through its Secretary,
Queula, Ponda Goa.
- 2 Shri Sanjay Raghunath Dhavlikar
S/o. Late Raghunath Purushottam Bhat
Dhavlikar,
60 years of age, Indian National,
R/o. H.No.102, Dhavli, Queula, Ponda Goa.
- 3 Shri Gopalkrishna Kamalakar Dhavalikar, ...Respondents
S/o. Late Kamalakar Dhavlikar,
62 years of age, Indian National
R/o. H. No.110, Queula, Ponda, Goa.

Mr. J.E. Coelho Pereira, Senior Advocate with Mr. Sagar Rivankar, Advocate for the petitioner.

Mr. Akshay Naik, Advocate for the respondent No.1.

Mr. Jatin Ramaiya, Advocate for the respondent Nos.2 and 3.

CORAM: MANISH PITALE, J.
RESERVED ON: 20th September, 2021
PRONOUNCED 27th October, 2021
ON:

ORDER:

1. An interesting question arises in the present petition in respect of jurisdiction of the Court of District Judge at South Goa for entertaining revision application filed by the petitioner under Section 201-B of the Goa Panchayat Raj Act, 1994 (Act of 1994, for short). By the impugned judgment and order, the said Court at South Goa has held that it does not have jurisdiction to entertain the revision application and accordingly, the revision application filed by the petitioner has been returned, for filing before the Court of competent jurisdiction. The present petition invokes the concepts of Revenue District and Judicial District, while debating the question of jurisdiction for entertaining revision applications under Section 201-B of the aforesaid Act of 1994.

2. The petitioner herein received a notice dated 01/11/2017 issued by respondent No.1 Village Panchayat of Queula, Taluka Ponda, under Section 66 (4) of the Act of 1994 for demolition of alleged illegal structures put up by the petitioner. Aggrieved by the aforesaid notice, the petitioner filed an appeal before the Director of Panchayats - II under Section 66(7) of the Act of 1994, claiming that the notice was unsustainable and it deserved to be quashed. By

Order dated 04/11/2020, the Additional Director of Panchayats- II (South Goa) dismissed the appeal filed by the petitioner and directed him to demolish the alleged illegal structures identified by respondent no.1- Village Panchayat within a period of 30 days, failing which the Village Panchayat would initiate action for demolition.

3. The petitioner filed Civil Revision Application No.37 of 2020 before the District and Sessions Court at South Goa to challenge the order passed by the Additional Director. A preliminary objection was raised on behalf of the respondents as regards maintainability of the revision application before the District Court at South Goa, on the ground that in terms of Section 201-B of the Act of 1994, since the subject matter of the dispute in the present case was within the jurisdiction of District Court of North Goa, the revision deserved to be dismissed for the want of jurisdiction.

4. By judgment and order dated 03/03/2021, the Court of District and Sessions Judge South Goa held that it did not have jurisdiction to entertain the revision application and accordingly, returned the application of the petitioner for filing before the Court of competent jurisdiction. Aggrieved by the same, the present

petition was filed, wherein this Court issued notice on 09/03/2021 and granted interim stay.

5. Mr. J.E Coelho Pereira, learned Senior Counsel appearing for the petitioner submitted that the subject matter of dispute in the present case was located in village Queula, Taluka Ponda, which is in the revenue district of South Goa. By inviting attention to Notifications published in the Government Gazette, it was brought to the notice of this Court that while initially the Taluka of Ponda was covered in the revenue district of South Goa, it was later shifted to the revenue district of North Goa as per Notification dated 17/03/2011. But, by a later Notification dated 22/01/2015, the Taluka of Ponda was brought back within the jurisdiction of the revenue district of South Goa. The learned Senior Counsel also placed emphasis on information provided under the Right to Information Act, 2005, by the Superintendent of the Directorate of Panchayats, wherein it was specifically stated that appeals and proceedings under the Panchayat Raj Act arising out of orders passed by the Panchayats in Taluka Ponda lay within the jurisdiction of the District of South Goa. It was further emphasized that in the present case, the appeal filed by the petitioner under Section 66(7) of the Act of 1994, was entertained and dismissed by the Additional

Director of Panchayats-II, South Goa, further indicating that the subject matter of dispute was within the jurisdiction of South Goa. On this basis, it was submitted that the Court below had erred in reaching a conclusion that it had no jurisdiction to entertain the revision application filed by the petitioner.

6. The learned Senior Counsel specifically invited attention of this Court to Section 201-B of the Act of 1994, to claim that the District Court in the present case was the designated Court for filing of revision applications and that the subject matter of dispute would have to be ascertained on the basis of the revenue district within which such a dispute arose. It was submitted that since Section 201-B of the Act of 1994, pertaining to revisions was inserted by amendment in the year 2010 and the said remedy came to be provided for the first time by such an amendment, the reference to District Court under Section 201-B(1) of the Act of 1994 had to be interpreted in a purposive manner to mean the designated District Court qua the revenue district within which the subject matter of the dispute was located. According to the learned Senior Counsel, holding otherwise would lead to administrative chaos as proceedings pertaining to the subject matter lying within the jurisdiction of the revenue district of South Goa would have to be

shifted to the District Court of North Goa, which could not have been the object and purpose of the amendment whereby Section 201-B was introduced in the said Act.

7. The learned Senior Counsel submitted that the Court below erred in referring to and relying upon Section 3 of the Goa Civil Courts Act, 1965 (Act of 1965, for short) which defines "District Court", while ignoring Section 5 of the Act of 1965, read in conjunction with Section 2(4) of the Code of Civil Procedure (CPC) which defines a "District". It was submitted that the literal interpretation applied by the Court below to Section 201-B of the Act of 1994 was leading to absurdity and therefore, purposive interpretation ought to have applied so as to avoid rendering the provision itself meaningless and being in the teeth of the object of the amendment. Reliance was placed on judgments of **Shailesh Dhairyawan v/s. Mohan Balkrishna Lulla** [(2016) 3 SCC 619], **Shaikh Ayesha Khatoon v/s. Union of India and others** [2018(3) Mh.L.J. 486], **Oriental Insurance Co. Ltd. v/s. Brij Mohan and others** [(2007)7 SCC 56], **SBP & Co. v/s. Patel Engineering Ltd. and Another** [(2005) 8 SCC 618] and **Life Insurance Corporation of India v/s. Nandini J. Shah and others** [(2018) 15 SCC 356].

8. On the other hand, Mr. Ramaiya, learned Counsel appearing for respondent Nos.2 and 3 submitted that the Court below had correctly interpreted the provisions of the Act of 1994, as also the Act of 1965 and the Notifications published in the official gazette, to conclude that the revision application filed by the petitioner under Section 201-B of the Act of 1994, was not maintainable before the District Court of South Goa. It was submitted that the jurisdiction of the District Court of North Goa extended to Taluka Ponda as per specific Notification issued in the year 1988 under Section 3 of the Act of 1965, which position remained unchanged and therefore, the revision filed by the petitioner could be filed only before the District Court at North Goa.

9. It was submitted that the Additional Director at South Goa was an office created for administrative convenience and that the appeal under Section 66(7) of the said Act of 1994 lay before the Director of Village Panchayats and therefore, merely because the appeal of the petitioner was disposed of by the Additional Director-II at South Goa, it would not override the provision of Section 201-B of the Act of 1994, to foist jurisdiction on the District Court at South Goa. The learned Counsel placed much reliance on the words "the District Court within whose jurisdiction the subject matter of the

dispute lies". These words were read with the jurisdiction of District Court specified as per Notification issued under the Act of 1965, to contend that since Taluka Ponda, wherein the subject matter of dispute in the present case was located, was covered under the jurisdiction of the District Court of North Goa, the revision application under Section 201-B of the Act of 1994 could be filed only before the District Court of North Goa. It was submitted that since the literal interpretation of the said provision was not leading to any absurdity, there was no scope for employing the tool of purposive interpretation in the present case. On this basis, it was submitted that the impugned order did not deserve to be interfered with.

10. Mr. Akshay Naik, learned Counsel appeared for respondent No.1 - Village Panchayat and supported the view expressed by the District Court at South Goa in the impugned judgment.

11. Having heard the learned Counsel for the rival parties, it becomes clear that the controversy has arisen for the reason that the revenue districts in Goa do not coincide with the judicial districts as specified under Notifications issued by the State by invoking provisions of both the statutes i.e. the Goa Civil Courts Act, 1965 and the Goa Panchayat Raj Act, 1994. It is in this backdrop that the rival

contentions have been raised with respect to the jurisdiction of the District Court in the context of the words "the District Court within whose jurisdiction the subject matter of the dispute lies" as stated in section 201-B of the Act of 1994.

12. Before analyzing the rival contentions raised on behalf of the parties, it would be appropriate to first refer to certain admitted positions. It is an admitted position that as per the latest Notification issued by the State on 22/01/2015 under Section 3 (1) of the Goa Land Revenue Code, 1968, read with Section 21 of the General Clauses Act, 1897, the Taluka of Ponda is covered under the revenue district of South Goa. Equally, it is an admitted position that as per Notification dated 10/03/1988, issued by the State by exercising power under Section 3 of the Goa Civil Courts Act, 1965, in consultation with the High Court, Taluka Ponda has been deleted from the jurisdiction of District Court of South Goa and included in the jurisdiction of the District Court of North Goa.

13. It is also necessary to refer to the provisions of the relevant statutes brought to the notice of this Court by the learned Counsel for the rival parties. The relevant provisions of the Goa Panchayat Raj Act, 1994, read as follows:

Section 66(7): An appeal shall lie to the Director, within a period of thirty days from any order of direction or notice issued under any of the provisions of this section and the decision of the Director on such appeal shall be final.

201- B : Revision.— (1) Save as otherwise provided in this Act, a revision shall lie against any order passed by any authority under this Act to the District Court within whose jurisdiction the subject matter of the dispute lies.

(2) Every revision application shall be filed within thirty days from the date of the order.

(3) The decision of the District Court shall be final and binding on the parties to the revision.

(4) Every such revision shall be decided as expeditiously as possible and endeavour shall be made to decide the same within a period of three months from the date on which it is filed.].

14. The relevant provisions of Goa Civil Courts Act, 1965, read as follows:

3. District Court. — There shall be a District Court for the [each District of State of Goa], presided over by a Judge to be called the District Judge and appointed by the 10[Government] but the 11[Government] may from time to time by notification in the Official Gazette, alter

the limits of the District or create new Districts for the purposes of this Act, in consultation with the High Court.

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5. Original jurisdiction of District Court.— The District Court shall be the principal Court of original civil jurisdiction in the district, within the meaning of the Code of Civil Procedure, 1908 or any other law for the time being in force.

15. It is also relevant that the word "District" is define in Section 2 (4) of the CPC as follows:

(4) "district" means the local limits of the jurisdiction of a principal Civil Court of original jurisdiction (hereinafter called a District Court), and includes the local limits of the ordinary original civil jurisdiction of a High Court;

16. A perusal of Section 201-B of the Act of 1994, shows that a revision shall lie against any order passed by any authority under the said Act to the District Court within whose jurisdiction the subject matter of the dispute lies. The words "District Court" in the said provision assume significance. It has been strenuously contended on behalf of the petitioner that the District Court under Section 201-B of the Act of 1994, is the designated Court before whom the revision application would lie. It has been emphasized that when the subject matter of the dispute in the present case is

undisputedly located in the District of South Goa as per the Notification dated 22/01/2015 issued by the State under the provisions of The Goa Land Revenue Code, the designated Court for filing the revision application is the District Court of South Goa.

17. It needs to be analyzed as to whether the said contention is based on correct interpretation of the relevant provisions of law. The said contention is based on the logic that since the subject matter of the dispute lies undisputedly within the revenue district of South Goa, the District Court of South Goa is the designated Court for entertaining revision applications under Section 201-B of the Act of 1994. In other words, the definition and jurisdiction of the revenue district ought to be the deciding factor while ascertaining the District Court which would have jurisdiction to entertain the revision application under Section 201-B of the Act of 1994. It has been emphasized on behalf of the petitioner that even if Section 3 of the Act of 1965, provides that there shall be a District Court for each District of the State of Goa presided over by the District Judge appointed by the Government by notification published in the official gazette and the limits of such district could be altered in consultation with the High Court, as per Section 5 of the Act of 1965 the District Court shall be the Principal Court of original civil

jurisdiction in the district within the meaning of the CPC. "District" within the meaning of CPC under Section 2 (4) means the local limits of the jurisdiction of the Principal Civil Court of original jurisdiction.

18. This Court is of the opinion that the words "District Court" in Section 201-B of the Act of 1994, have to be read with the definition of "District Court" as specified in Section 3 of the Act of 1965 read with Section 5 thereof. Even if, the definition of "District" given in Section 2(4) of the CPC is read with Sections 3 and 5 of the Act of 1965, the only conclusion that can be drawn is that the reference to the words "District Court" in Section 201-B of the Act of 1994, has to be the District Court having jurisdiction, as specified by the State/Government of Goa in consultation with the High Court. The extent of jurisdiction of the District Court is determined by a conscious act under the provisions of the Act of 1965, in consultation with the High Court. There is no dispute about the fact that as per Notification dated 10/03/1988, published in the official gazette, the Taluka of Ponda stood deleted from the jurisdiction of the District Court of South Goa, to be included under the jurisdiction of the District Court of North Goa. This position has remained unchanged till date. It is undisputed that the subject

matter in dispute in the present case lies in the Village Queula located in Taluka Ponda, which in turn is covered under the jurisdiction of the District Court of North Goa as per the said Notification issued by the State of Goa in consultation with the High Court. Therefore, the contention raised on behalf of the petitioner cannot be accepted.

19. The Notification issued under the Goa Land Revenue Code defining the limits of revenue districts cannot be confused with the jurisdiction of District Courts as specified by the State of Goa by issuing Notification under the provisions of Act of 1965, in consultation with the High Court. Accepting the contention raised on behalf of the petitioner would amount to giving an overriding effect to the definition of “revenue district”, over and above the jurisdiction of the District Court as specified under the Act of 1965, which cannot be permitted.

20. The emphasis placed on the fact that the order dismissing the appeal of the petitioner was passed by the Additional Director of Panchayat-II, South Goa, to claim that the District Court of South Goa would have jurisdiction, is also misplaced for the reason that the appeal under Section 66(7) of the Act of 1994, lies before the Directorate of Village Panchayat and it is a matter of administrative

convenience that the appeal stood allotted to the Additional Director of Panchayats of South Goa, perhaps because Taluka Ponda stood covered under the revenue district of South Goa as per the Notification dated 23/01/2015 issued by the State under the Goa Land Revenue Code. But, such an act of administrative convenience cannot foist jurisdiction on the District Court of South Goa, when Section 201-B(1) of the Act of 1994, specifically states that the revision shall lie to the District Court within whose jurisdiction the subject matter of the dispute lies. It is undisputed that Taluka Ponda is covered under the jurisdiction of the District Court of North Goa and therefore, the revision application filed by the petitioner before the District Court of South Goa was misplaced. Hence, the view expressed in the impugned order while returning the revision application cannot be found fault with.

21. As regards the judgments on which the learned Senior Counsel appearing for the petitioner has placed reliance are concerned, they pertain to the necessity to employ the tool of purposive interpretation when the literal interpretation leads to absurdity. In the present case, this Court is of the opinion that the tool of purposive interpretation cannot be invoked because the interpretation of the words "District Court within whose jurisdiction

subject matter of the dispute lies" is absolutely clear by applying the definition of "District Court" as specified under the provisions of the Act of 1965. There is no absurdity on employing such an interpretation, which shows that the revision application would lie before the District Court at North Goa.

22. The emphasis placed on the judgment in the case of **Life Insurance Corporation of India v/s. Nandini J. Shah and others** (supra), with reference to designated Court or persona designata, cannot be of assistance to the petitioner, for the reason that the question that arose for consideration in the said case, was materially different from the question that has arisen in the present case before this Court. The provisions of the Act of 1965, read with the Notification issued by the State on 10/03/1988, are clear and the concept of designated Court sought to be invoked on behalf of the petitioner is misplaced and it cannot be accepted. Therefore, reliance placed on the aforesaid judgments of the Hon'ble Supreme Court on behalf of the petitioner does not demonstrate any error committed by the Court below while passing the impugned order.

23. At the same time, a concern of the petitioner needs to be addressed regarding the interim order operating in his favour throughout the appellate proceedings and even before the Court

below, as also this Court. It is contended on behalf of the petitioner that if the Writ Petition is dismissed and the petitioner is to move the District Court at North Goa to file the revision under Section 201-B of the Act of 1994, the question of delay and continuation of interim order would arise. It is submitted that since the petitioner pursued the revision application before the District Court at South Goa under the *bona fide* belief that the said Court had jurisdiction on an interpretation of the Act of 1994, this Court may issue suitable direction to protect the interest of the petitioner. The learned Counsel appearing for the respondent, on instructions, did not raise any serious objection to such direction sought on behalf of the petitioner. In fact, a statement was made that the objection of limitation shall not be raised before the District Court at North Goa, provided the petitioner approaches the said Court within a stipulated period of time and a further direction was given for disposing of the revision application expeditiously.

24. In view of the above, the Writ Petition is dismissed.

25. If the petitioner files a revision application before the District Court at North Goa under Section 201-B of the Act of 1994, within a period of two weeks from today, the said Court shall entertain the revision application on merits. The interim order operating in

favour of the petitioner shall continue to operate during the pendency of such revision application, if it is filed within two weeks from today before the District Court at North Goa. The District Court at North Goa shall entertain and dispose of the revision application, if filed within a period of two weeks from today by the petitioner, as expeditiously as possible and in any case, within a period of three months from the date of filing of such revision application.

MANISH PITALE, J.