



Amrut

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.92 OF 2026

Vasant Harmalkar,
Son of Subrai Harmalkar,
63 Years, Married,
R/o House no. 179/1,
Ruzaiwado, Cuchelim,
Bardez, Goa.

... Petitioner.

Versus

1. The Deputy Collector and SDO,
Deputy Collector office,
Bardez, Goa.

2. Shri. Dadapir K Navalgund
Major of age,
Resident of H.No. 1/180/A,
Cuchelim, Mapusa Goa.

... Respondents.

Mr Preetam Talaulikar with Ms Sara Desai, Advocates for the
Petitioner.

Mr Iftikhar Agha with Ms Valencia Fernandes and Mr Utkarsh
Sawant, Advocates for Respondent No.2.

CORAM:	DR. NEELA GOKHALE, J.
RESERVED ON:	25th June, 2026
PRONOUNCED ON:	6th July 2026

JUDGMENT:

1. **Rule.** The rule is made returnable forthwith. With the consent of learned Counsels appearing for the respective parties, the matter is taken up for final hearing.

2. By this petition, the Petitioner assails the Order dated 18th October 2024, passed by the Minister for Revenue ('Appellate Authority') in Case No. 2/8/8/2023-RD, upholding the Order dated 18th January 2023, passed by Respondent No. 1, Deputy Collector & S.D.O-I, Bardez Sub-Division, Mapusa, Goa, rejecting the Petitioner's application for regularisation of the unauthorised structure in Survey P.T. Sheet 13, Chalta No. 18, 58/2, 3, 4, 7 and 9, admeasuring 650 sq. mtrs., at Cuchelim, Mapusa, Goa ('said property').

3. The facts of the case, in brief, are as follows:

3.1. On 17th July 2018, the Petitioner, claiming to be in absolute possession of the said property as the owner, applied for the regularisation of the house structure on the said property under the Goa Regularisation of Unauthorised Construction Act, 2016 ('the Act').

3.2. The Petitioner relied on several documents, including the Form B dated 12th February 1988 and 07th March 1988, issued to both his father, Mr Subrai Arjun Harmalkar, and himself under Rule 2(2) of

the Goa, Daman and Diu Land Revenue (Inquiry into Title of Land) Rules, 1969, which showed his father to be in possession of the said property since 1988, in support of his claim. He also relied on the Zoning Certificate dated 11th April 2022, issued by the North Goa Planning and Development Authority ('**NGPDA**'), which stated that the said property was within the Settlement S1 Zone as per the Outline Development Plan of 2021.

3.3. The Respondent No. 1-Deputy Collector called for the reports from the Inspector of Survey & Land Records ('**ISLR**') and the Forest Department. The house structure received clearance for regularisation from the ISLR and the Forest Department.

3.4. Respondent No. 2, a resident of the area, filed an objection to the Petitioner's regularisation application on 25th August 2022, stating that the construction was carried out after the cut-off date, i.e., 28th February 2014, as specified in the Act.

3.5. The Respondent No. 1-Deputy Collector, by Order dated 18th January 2023, rejected the Petitioner's regularisation application, on the ground that the Petitioner failed to produce any documents to prove his ownership, as well as No Objection from the original owner.

3.6. Aggrieved by the same, the Petitioner preferred an appeal bearing Case No. 2/8/8/2023-RD on 08th March 2023 before the

Minister of Revenue, the Appellate Authority.

3.7. During the pendency of the appeal, on 03rd August 2023, the Petitioner instituted a suit bearing RCS No. 148/2023/C before the Civil Judge Senior Division, Mapusa, which is yet pending, seeking a declaration of ownership, as the only ground on which his regularisation application was rejected was non-production of ownership documents. The copy of the plaint was placed before the Appellate Authority on 26th September 2024.

3.8. On 18th October 2024, by way of the impugned Order, the Appellate Authority dismissed the Petitioner's appeal, thereby upholding the Respondent No.1-Deputy Collector's Order dated 18th January 2023, rejecting the Petitioner's claim for regularisation of the house structure in the said property.

4. Mr Preetam Talaulikar, learned counsel, appeared for the Petitioner and Mr Iftikhar Agha, learned counsel, appeared for Respondent No.2.

5. SUBMISSIONS ON BEHALF OF THE PETITIONER:

5.1. Mr Talaulikar submitted that the impugned Order is illegal, arbitrary and bad in law.

5.2. That the Appellate Authority misinterpreted Section 3(1)(a) of the Act.

5.3. That the Petitioner constructed his house in 1992, which is registered in the records of Mapusa Municipality and numbered as House No. 179/1. The Petitioner constructed the first floor, of which regularisation is sought, in 2004, i.e., before the cut-off date - 28th February 2014, as specified in the Act.

5.4. That the Appellate Authority failed to consider that, even though there was no entry in the Survey Forms showing the Petitioner as the owner of the subject properties, he was the owner by operation of law, as he had been in possession of the property since 1988, as proved by the Order of Possession (Form B) issued by the Inspector of Cadastral Survey and Settlement Officer, Mapusa, Goa.

5.5. That according to Articles 526 and 527 read with Article 510 of the Portuguese Civil Code, 1867, the Petitioner's possession has become definite and he has acquired title in the property by prescription, irrespective of such possession being in good faith or bad faith.

5.6. That the property is now earmarked as Settlement S1 Zone as per the Outline Development Plan, 2021, and as such, the structure cannot be termed as illegal but irregular, which is otherwise legal but short of permission.

5.7. That the Appellate Authority failed to consider that a Civil Suit

for declaration of ownership, instituted by the Petitioner, is pending adjudication.

Mr Talaulikar, thus, prays that the petition be allowed.

6. SUBMISSIONS ON BEHALF OF RESPONDENT NO.2:

6.1. Mr Agha submitted that neither the impugned Order nor the Order passed by Respondent No. 1, the Deputy Collector, suffers from any illegality, perversity or procedural impropriety that would warrant this Court's interference under Article 227 of the Constitution of India.

6.2. That the Petitioner has approached this Court with unclean hands and has suppressed material facts, including Demolition Orders issued by the Mapusa Municipal Council, Orders issued by the NGPDA dismissing regularisation applications, and the Order of the Municipal Appellate Tribunal.

6.3. That the Petitioner is not the owner of the property but only has a possessory right in the same. Neither did he produce any documents to prove his ownership, nor did he produce an NOC from the original owner.

6.4. That the structure for which regularisation was sought by the Petitioner was built after the cut-off date - 28th February 2014, as

specified under the Act, and hence, the same cannot be regularised.

6.5. That the Petitioner has carried out illegal construction on various agricultural properties at Cunchelim, Mapusa, without obtaining permission/license from competent authorities.

6.6. That several complaints were lodged by the Respondent No. 2 and one Mr Narulla Mulla, a resident of Cunchelim, Mapusa, with the authorities concerned against the illegal construction carried out by the Petitioner, including against the 1st floor of the house structure of which regularisation is sought.

6.7. That by order dated 27th October 2021, the Mapusa Municipal Council directed demolition of the 1st floor of the house structure, as it was illegal. The same was upheld by the Municipalities Appellate Tribunal, Panaji, Goa, by Order dated 30th September 2025.

Hence, Mr Agha prays that the petition be dismissed.

ANALYSIS:

7. Before delving into the merits of the case, it is necessary to reproduce the provisions of the Act under which the Petitioner has sought regularisation of his structure.

"3. Regularisation of unauthorized construction.—

(1) Any person who has carried out unauthorized construction in the property specified herein below before the 28th day of February, 2014, may make an application in Form I hereto together with application fee in the form of Court fee stamp of rupees five, documents specified in Schedule I hereto, sketch of the structure proposed to be regularized along with dimensions to the officer as may be authorised by the Government by Notification in the Official Gazette, not below the rank of Junior Scale Officer of Goa Civil Service, for regularisation of such unauthorized construction, within a period of [210 days] from the date of coming into force of this Act:

(a) any residential, commercial or residential cum commercial unauthorized construction in applicants own property, or in a property jointly held by the applicant with other co-owners.”;]

(b) any unauthorized construction of a dwelling house by the applicant who is declared/registered as mundkar under the provisions of the Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975 (Act No. 1 of 1976) or a farm house constructed by the applicant who is tenant or owner of an agricultural land.

(c) any unauthorized construction by the applicant in undivided property jointly held by a unit of family or families.”;]

(d) any unauthorized construction carried out by an institution or a person other than an individual in its property.

(e) any unauthorized construction carried out by the applicant, in a property wholly owned by another

person with the consent of such person.

[(f) any unauthorized construction of a dwelling house carried out on a land belonging to a Comunidade in respect of which the officer authorized under clause (1) of article 372-B of the Legislative Diploma No. 2070 dated 15-4-1961, in its application to the State of Goa, has passed order of regularisation of such land.

(g) any unauthorized construction of a dwelling house carried out on a land belonging to the Government or land granted by the Government in respect of which the Deputy Collector has passed order of regularisation of such land.

(h) any unauthorized construction of a dwelling house carried out on a land granted by the Government under 20 Point Programme Scheme in respect of which the competent authority has granted Class I occupancy.].

[Provided that the person who could not make application within above period may make such application within a period of thirty days from the date of coming into force of the Goa Regularisation of Unauthorized Construction (Amendment) Act, 2018.]

[Provided further that the person who could not make application within a period as specified in the first proviso may make such application within a period of ninety days from the date of coming into force of the Goa Regularisation of Unauthorized Construction (Amendment) Act, 2023.]

[Provided further that the person who could not make application within a period as specified in the third

proviso may make such application within a period of ninety days from the date of coming into force of the Goa Regularisation of Unauthorized Construction (Third Amendment) Act, 2023].

[Provided further that the person,—

(i) who could not make application within the period as specified in the fourth proviso; or

(ii) whose application has been rejected by the authorized officer before the commencement of the Goa Regularisation of Unauthorized Construction (Amendment) Act, 2025, on any ground whatsoever, may make such application or fresh application, as the case may be, within a period of two years from the date of coming into force of the Goa Regularisation of Unauthorized Construction (Amendment) Act, 2025.]

(2) The authorised officer shall issue acknowledgment to the applicant of having received the application under sub-section (1).

(3) The authorised officer shall scrutinize the application received under sub-section (1) and after holding an enquiry, as he deems fit and conducting site inspection thereof and subject to payment by the applicant of charges, taxes, fees and penalty as determined by the authorised officer as per schedule II hereto, grant a sanad under Section 32 of the Goa Land Revenue Code, 1968 (Act No. 9 of 1969) and pass an order of regularisation of such unauthorized construction”]

[(4) The total built up area of the unauthorized construction which is proposed to be regularised

including all floors thereof shall not exceed,—

(i) 600 square meters, in case such construction is carried out within limits of any Village Panchayat, subject to the permissible F.A.R.;

(ii) 1,000 square meters, in case such construction is carried out within limits of any Municipal Council or Municipal Corporation, subject to the permissible F.A.R., and such construction shall be meant for either personal residence, commercial purpose, commercial cum residential purpose or institutional purpose of the applicant.”;]

(5) The authorised officer shall not entertain any application under sub-section (1), if the unauthorized construction falls within the limits of the protected forest, area declared as a wild life sanctuary, [area covered under the Coastal regulation zone where such construction has been carried out after the 19th day of February, 1991], No Development Zone, open spaces, public land, ,[areas covered under Eco Sensitive Zone-I, areas other than orchard land or cultivable land covered under Eco Sensitive Zone-II], Khazan land, any construction prohibited under the Goa Land(Prohibition on Construction) Act, 1995, (Goa Act No. 20 of 1995), road set back or right of way or any construction which causes obstruction to any natural water channel or any structure which is constructed by filling water bodies or any construction in or for scrap yard.

[Explanation. — (i) “Eco Sensitive Zone-I” means Eco Sensitive Zone-I as classified in Regional Plan 2021.”

(iii) “Eco Sensitive Zone-II” means Eco Sensitive-II as classified in RegionalPlan 2021];

[Provided that the authorized officer may entertain any application under sub-section (1), if the unauthorized construction falls within the limits of the area covered under Settlement Zone, Institutional Zone or Industrial Zone, Cultivable Zone, ORCHARD.]

[Provided further that where there is no required access of three meters to the unauthorized construction, the authorized officer shall entertain an application under sub-section (1) for regularisation of unauthorized construction if the applicant undertakes to make such access available within a period of five years by submitting an undertaking to that effect.];

[(6) The authorised officer shall not entertain an application or proceed with regularisation process of unauthorized construction where the title or ownership of any property/land upon which unauthorized construction has been carried out, is subject matter of a dispute before any Court, Tribunal or any Statutory Authority and such Court, Tribunal or Statutory Authority has passed an injunction or granted status quo or any prohibitory order against such property/land or construction.

(7) Where the title or ownership of any property/land upon which unauthorized construction has been carried out, is subject matter of a dispute before any Court, Tribunal or any Statutory Authority but no such injunction or status quo or any prohibitory order is granted against such property/land or construction by such Court, Tribunal or Statutory Authority and the authorised officer passes any order of regularization of unauthorized construction under this Act, such order shall be subject to the decision of such Court or Tribunal or Statutory Authority.

[(7A) Where the authorized officer passes an order under this Act for regularisation of unauthorized construction in a property jointly held by the applicant with other co-owners as referred in clause (a) of sub-section (1), without the written consent of all such co-owners, such order shall be subject to the order or judgment that may be passed by the competent Civil Court in a suit or other legal proceeding that may be initiated by the aggrieved co-owner.

(7B) Where the authorized officer passes an order under this Act for regularisation of unauthorized construction in a property jointly held by the applicant with other members of the unit of family or families as referred in clause (c) of sub-section (1), without the written consent of all other members of such family or families, such order shall be subject to the order or judgment that may be passed by the competent Civil Court in a suit or other legal proceeding that may be initiated by the aggrieved any member of such family or families.”]

(8) Notwithstanding anything contained in the relevant Act or in any contract, judgment, decree or order of any Court or any Statutory Authority or any instrument having the force of law, the authorized officer may, entertain an application under sub-section (1) and pass an order of regularisation of unauthorized construction under this Act and upon passing of such order of regularisation of unauthorized construction, such unauthorized construction shall be deemed to have been regularised under the relevant Act.]”

8. A plain reading of the provision under which unauthorised construction may be regularised under the Act indicates that the person seeking such regularisation must be the absolute owner of

the property or hold it jointly with other co-owners. Admittedly, the Petitioner has been unable to produce any documents establishing his title to the said property. It is also admitted that the Petitioner and his wife have instituted a Regular Civil Suit bearing No.148/2023/C before the Civil Judge Senior Division, at Mapusa Goa, against one Fr. Gualberto Luis D'Souza and Ms Mary D'Cruz, seeking a declaration that they are owners in possession of the suit property by adverse possession under Section 34 of the Specific Relief Act, 1963. As averred in the plaint, the suit was filed on 18th January 2023, following the rejection by the Deputy Collector and SDO, Bardez Goa, of the Petitioner's regularisation application. This clearly indicates that at the time of filing the application for regularisation of the unauthorised structure, the Petitioner's ownership of the suit premises was not established.

9. The property card extract for the said property clearly indicates that the Petitioners are in cultivatory possession of the property. The title to the property vests in Ms Mary D'Cruz. The Civil Suit is pending before the Civil Judge, Senior Division, at Mapusa, Goa. Mr Talaulikar contended that, since his title to the property is sub judice before the Civil Court, there is no restraint on the Authorised Officer from regularising the unauthorised construction. He relied on Section 3(7) of the Act.

10. Section 3(6) of the Act specifically prohibits the Authorised

Officer from entertaining any application or proceed with the regularisation process of unauthorised construction where the title or ownership of the property/land upon which unauthorised construction is carried out, is a subject matter of a dispute before any Court, Tribunal or any Statutory Authority, in case the Court, Tribunal or Statutory Authority has passed an injunction order against such property. However, in the event that no such Injunction order is granted against such property, and the authorised person proceeds to pass any regularisation order, the same shall be subject to the decision of the concerned Court. This clause does not vest power in the Authorised Officer to regularise the unauthorised structure, but merely provides that, in case such a regularisation order is passed, it is always subject to the outcome of the suit. Mr Talaulikar's interpretation of the provision is clearly incorrect. Similarly, Mr Talaulikar's contention that mere pendency of the suit is sufficient to establish his title to the said property is also misconceived. Moreover, the fact that the Petitioner instituted the suit seeking a declaration of his ownership only after his regularisation application was rejected speaks volumes.

11. Mr Agha has also drawn my attention to the Application- cum self-declaration filed by the Petitioner for regularisation of the unauthorised construction under Section 3(1) of the Act. In clause No.6(c) of the application, the Petitioner has misrepresented his connection with the property as his own property. Thus, Mr Agha

has argued that the Petitioner has deliberately attempted to mislead the Authorised Officer regarding his status in relation to the said property. It appears that the Petitioner has portrayed himself as owner of the property while seeking regularisation. Such conduct on the part of the Petitioner is unacceptable.

12. Mr Talaulikar canvassed the argument that the unauthorised construction was carried out prior to the cut-off date provided for in the Act, which is 28th February 2014, and thus, according to him, any unauthorised construction made prior to the cut-off date is eligible for regularisation. He has relied upon a document at Page 59 of the petition, which is a letter dated 2nd March 2022, addressed to the Deputy Collector by the Range Forest Officer, Panaji, Goa, whereby the said Officer has furnished a joint inspection report pertaining to the said construction. The subject of the letter is 'Application for Regularisation of Unauthorised Construction Act, 2016, Ref. DC/MAP/REGLSN/1-260/2018 dated 6th December 2021. Hence, Mr Talaulikar submits that the construction existed even prior to 2021. He then points to a letter addressed by the Petitioner to the Member Secretary of the NGPDA, dated 26th July 2018, which also refers to minor maintenance and repair works carried out by the Petitioner on the first floor of his house, which was constructed earlier, by obtaining a repair licence bearing No. ENGG/F.62/7991/04 from the Mapusa Municipal Council. On this basis, Mr Talaulikar says that the said repair permission shows that the construction of the

first floor is prior to the cut-off date. Notwithstanding that the unauthorised construction sought to be regularised is presumed to be prior to the cut-off date, the Petitioner's construction does not fall within the scope and ambit of Section 3(1)(a) to (h) of the Act. The Petitioner's claim that the unauthorised structure existed prior to the cut-off date does not bring the same within the conditions of (a) to (h) of Section 3(1) of the Act.

13. Mr Talaulikar has overlooked the list of unauthorised constructions that are enumerated in the said provisions themselves, which can be considered for regularisation. Needless to state, his structure does not fall within the scope and ambit of any of the constructions listed in the provision, as he is unable to corroborate his ownership claim to the said property.

14. The documents on record filed by the Respondent, along with his reply affidavit, also demonstrate that the Petitioner does not have any permission or approval from the competent authorities to carry out the construction. In fact, the NGPDA had called upon the Petitioner to furnish the approved building plan for the construction, along with ownership documents, if any. The Mapusa Municipal Corporation had also conducted a site inspection of the premises and observed that the compound wall constructed by the Petitioner with laterite stone blocked the Municipal drain and had issued a stop-work notice. Thereafter, the Mapusa Municipal Council issued

a demolition order for the unauthorised first-floor construction of the property. The Petitioner had preferred an appeal against the demolition order issued by the Mapusa Municipal Council before the Municipalities Appellate Tribunal of Goa, at Panaji, which was dismissed vide order dated 30th September 2025. The Petitioner's other attempts to regularise the unauthorised construction by making applications before other authorities have also failed. The Deputy Collector, after affording the Petitioner as well as the Respondent No.2 an opportunity of hearing, dismissed the application as the Petitioner was unable to produce ownership documents pertaining to the construction. In fact, the Deputy Collector also observed that the Form D of PT sheet No.13 of the relevant Survey Numbers showed the name of the Petitioner's father in the other remarks column as being in 'cultivatory possession.' Thereafter, the possession of the property came into the hands of the Petitioner and others.

15. Mr Talaulikar then submitted that the Petitioner is a co-owner of the said property. Even assuming this to be true, the Deputy Collector observed that none of the alleged co-owners has furnished an NOC or consent to seek regularisation of the construction.

16. The Petitioner then appealed the order before the Minister, who also concurred with the findings of the Deputy Collector and held that the Deputy Collector's insistence on the ownership

documents and/or consent of co-owners was justified. The Minister thus dismissed his appeal.

17. In view of the foregoing discussion, I have found no infirmity in the impugned orders. The Petitioner has failed to establish ownership, whether individual or otherwise, that would entitle him to benefit from the provisions of the Act and to regularise the unauthorised construction. Alternatively, even accepting the Petitioner as a co-owner of the structure as per his claim, he has failed to obtain an NOC/consent from his alleged co-owners. The Petitioner is thus not entitled to seek regularisation of the unauthorised construction on the first floor of his house property. The petition is accordingly dismissed.

18. The rule is discharged.

DR. NEELA GOKHALE, J.