



Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.355/2025**

1. ROSETTE MARIA LOBO
Daughter of Oswald Lobo,
Aged 43 years, inservice,
R/o Tirthrupa Housing Board Colony,
Porvorim, Bardez, Goa

2. MRS. AKSHAYA KAMAT
Daughter of Dilip Aroskar,
Widow of Mr. Amey Anant Kamat,
Aged 42 years, inservice,
R/o Live in Apts., 2nd Floor,
General Benard Guedes Road,
Panaji, North Goa, Goa- 403001.

... PETITIONERS

Versus

1. THE CUSTODIAN OF
ENEMY PROPERTY FOR
INDIA, Kaiser - I - Hind Building,
Currimbhoy Road, Ballard Estate,
Mumbai-400001.

2. THE COLLECTOR, Office of
Collector, North Goa District,
Collectorate building, Panaji-Goa.

3. THE MAMLATDAR OF BARDEZ,
Office of the Mamlatdar, Bardez, Goa.

... RESPONDENTS

Mr Nigel da Costa Frias with Mr Vineet Surlakar and Mr Shane Coutinho, Advocates for the Petitioners.

Mr R. Chodankar, Central Govt Standing Counsel for Respondent No.1 (thr VC).

Mr Amogh Arlekar, AGA for Respondents No.2 and 3.

**CORAM: BHARATI DANGRE &
ASHISH S. CHAVAN, JJ.**

DATED: 15th OCTOBER 2025

ORAL JUDGMENT: (Per Bharati Dangre, J.)

1. The Petitioners claiming to be the owners of the property described in paragraph 2 of the Petition situated in Village Assagao, claim that it was originally owned by a couple Mr Michael Ignatius and his wife Mrs Lena. Ignatius, who migrated to Karachi, Pakistan post liberation in 1960 and they demised. The property having passed to their son Mr Stephen Ignatius in pursuance of the Inventory Proceedings became the absolute owner of the property. By a General Power of Attorney he appointed Mr Audhut Vithal Pole and it is he who executed a Sale Deed in favour of Mr Pramod Bhikaji Padate who became the sole owner and continued to be in peaceful and exclusive possession of the said property. The Petitioners purchased the said property from Mr Pramod Padate vide Sale Deed dated 16.03.2009 executed before the Office of Sub-Registrar of Bardez.

The grievance of the Petitioners is about this property being subjected to an order dated 08.10.2010 issued under Sections 5 and 24 of the Enemy Property Act, 1968, which declared that property bearing Survey No.218/3 of Village Assagao is enemy property belonging to Leonildes Artimisia, a Pakistani National and therefore it shall vest with the Custodian of Enemy Property i.e. the Respondent No.1 herein. Following the said order, Certificate under Section 12 of the Enemy Property Act, 1968 was also issued on 08.10.2010 by the Custodian of Enemy Property and it is the claim of the Petitioners that the Certificate wrongly records the name of Leonildes Artimisia as the Pakistani

owner and the names of Smt Shantabai Bala Shetye and Shri Vithal Pole, Assagao as the present occupants.

2. Heard Mr Nigel da Costa Frias for the Petitioners, Mr R. Chodankar for the Respondent No.1 and Mr Amogh Arlekar, learned AGA for the State.

3. Rule. Rule is made returnable forthwith at the request of and with the consent of the learned counsel for the parties.

4. Mr Costa Frias, learned counsel for the Petitioners, would submit that the order passed on 08.10.2010 is clearly in violation of the principles of natural justice as despite the Petitioners becoming the owners of the property in the year 2009 through a Sale Deed dated 16.03.2009 and being put in possession of the property, they were not afforded any opportunity of establishing their claim over the property before it was declared to be vested in the Custodian of Enemy Property.

It is his specific contention that there is no justification reflected in the order as to how and why the subject property surveyed under No.218/3 of Village Assagao is adjudged as enemy property.

Mr Frias would rely upon the decision of this Court in a group of petitions decided on 26.11.2019 where a similar issue was raised about denial of an opportunity of hearing before the order was passed in respect of the property involved, being declared as property vested in the Custodian of Enemy Property. By specifically inviting our attention to the observations in the

Judgment declaring that in the absence of any opportunity being afforded to the Petitioners therein, the impugned orders cannot be set aside without precluding the Respondents for initiating any fresh proceedings in terms of the provisions of the Enemy Property Act and Enemy Property Rules, if they are satisfied that any material or grounds exist for doing so after hearing the Petitioners, the Petitions were made absolute.

5. On the last date of hearing when we issued notices to the Respondents, Mr Chodankar marked his appearance for Respondent No.1 and sought some time to ascertain the factual aspects of the matter. Today, Mr Chodankar has marked his appearance through VC.

The Petitioners were not heard before the property was declared as enemy property, by reserving the right in the Respondents to initiate proceedings under Enemy Property Act in case on hearing the Petitioners the Respondent No.1 still held the same view that the property is liable to be declared as enemy property.

6. In the wake of aforesaid, we deem it appropriate to quash and set aside the order dated 08.10.2010 passed by Respondent No.1 along with the Certificate dated 08.10.2010 issued under Section 12 of the Act, as the impugned order is passed without affording an opportunity of hearing to the Petitioners despite their claim that they acquired rights in the said property prior to the said impugned order. Upon granting opportunity of hearing, the Respondent No.1 is at liberty to arrive at a decision either to

close the proceedings or if it deem appropriate, to initiate fresh proceedings under the Act and the Rules.

7. As a consequence the name of the custodian recorded in Form I and XIV in respect of Survey No.218/3 shall stand removed.

8. The Petition is made absolute with the above directions.

ASHISH S. CHAVAN, J.

BHARATI DANGRE, J.