

**BEFORE THE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE AT PUNE.**

Orig Application No. 84/2015

**Goa Paryavaran Savrakshan
Sangharsh Samitee,
Through its President,
Mr. Bruno Rodrigues,
And Anr.**

... Applicants

Vs.

**Mr. Yogesh Pratapsinh Jadhav,
and 15 Ors.**

... Respondents

**WRITTEN SYNOPSIS ON BEHALF OF
RESPONDENT NO. 3(a) to 3(c)**

MAY IT PLEASE YOUR LORDSHIPS:-

The Respondents Nos. 3(a) to 3(c) herein submit as under:-

1. The said Respondents are the co-owners in possession of property bearing survey No. 90/1-A of Penha de Franca, Bardez-Goa, admeasuring 8276 sq. mts., having purchased the same vide Sale Deed

dated 29/10/1981. The said property was partitioned under the provisions of Goa Land Revenue Code vide Order dated 16/04/1985 passed by the Deputy Collector and a separate Survey No. 90/1-A was given for the said property. The said property is in settlement zone.

2. The Late Mr. Vithal Thakur filed a W. P. No. 567/2008 before this Hon'ble Court seeking, amongst other reliefs a writ of mandamus or in the nature of mandamus or any other appropriate writ, direction or order commanding Chief Conservator of Forests, Panaji - Goa and/or Dy. Conservator of Forest, North Goa Division, Ponda to grant NOC for conversion of the said property under section 32 of Goa Daman and Diu Land Revenue Code 1968 in pursuance to the application dated 01/02/2008.
3. Vide Order dated 17/11/2008, the Hon'ble High Court of Bombay at Goa was pleased to dispose off

the petition after accepting the statement on behalf of the forest department that they would issue notice and afford hearing to the said Late Mr. Vithal Thakur in the matter of acquisition of the land being a private forest. The same is annexed at Page 133.

4. However, after elapse of considerable time and in pursuance to appropriate application filed by the said Late Mr. Vithal Thakur, the Dy. Conservator of Forest endorsed that the property of the Respondents did not satisfy the criteria of private forest.
5. Accordingly, the said Late Mr. Vithal Thakur filed an application for conversion of the said property to non-agricultural purposes under Section 32 of the Land Revenue Code. However, the NOC was not being issued on the part of Dy. Conservator of Forest, North Goa Division, Ponda and aggrieved by the same, the said Late Mr. Vithal Thakur filed a W. P. bearing No. 534/2013 in the Hon'ble High Court of Bombay at Goa.

6. Vide order dated 19/11/2013, annexed at Page 135, the Hon'ble High Court of Bombay at Goa held as under :

“3. For deciding the question as to whether a particular area is forest or not, we find that it is sufficient if an inspection is carried out by a responsible officer of the Forest Department in presence of the Petitioner. We are, therefore, not inclined to accept the submission of the learned Advocate General.

4. The Principal Conservator of Forests, is, therefore, directed to appoint a responsible officer of the Forest Department to carry out inspection of the land which is subject matter of the present petition, to find out as to whether it is part of forest

area or not. We also direct the said Officer to take photographs of the site in question. Let the inspection be carried out on 25th November, 2013 at 11.00 a.m. Since the Petitioner is aware of the said date, no formal notice is required to be given to the Petitioner. The report be submitted to this court, along with the Photographs on 4th December 2013.”

7. In pursuance to the above order inspection was carried out by the Dy. Conservator of Forest, North Goa Division, Ponda and in the said report it was observed that an area admeasuring 7917 sq. mts. of the said property is not part of the forest area. The said report was submitted before the Hon'ble High Court of Bombay at Goa and after taking cognizance of the said report, the Hon'ble High Court of Bombay at Goa, vide order dated 04/12/2013, annexed at

Page 137, was pleased to accept the observation in the same that an area of 7917 sq. mts. of the said property is not forest area and direct the Chief Conservator of Forests, Panaji - Goa and Dy. Conservator of Forest, North Goa Division, Ponda to grant NOC for conversion of the said property under Section 32 of the Goa Land Revenue Code from agricultural to non-agricultural purpose.

8. In pursuance to the above order, the Forest Department granted NOC and on 06/11/2014, the concerned Additional Collector North Goa at Panaji - Goa was pleased to grant conversion sanad under Section 32 of the Goa Land Revenue Code for residential user of the said property, which is annexed at Page 142.
9. In the light of above, the question of the said property being a forest or non-forest land cannot be re-agitated in the above proceedings. The said issue

stands concluded by the Hon'ble High Court of Bombay at Goa. The said Order has not been challenged by the Applicant or any other party and cannot be challenged before this Hon'ble Tribunal. The said Order is binding on this Hon'ble Tribunal.

10. In light of above, the application needs to be dismissed on the said count. The said issue was raised by way of preliminary objections and this Hon'ble Tribunal had passed an Order on the above application that the same shall be considered at the time of the final hearing.
11. The Applicant is seeking to place reliance on the Order of the Hon'ble Apex Court of February 2014, which is an interim order. The same cannot be considered and/or has no relevance in the above proceedings for the following reasons:-
 - i. The said Order is not the basis of challenge in the above application and on that ground itself, the contention needs to be rejected.

- ii. Without prejudice to whatever is stated above, the said Order was passed in February 2014 which is much after the Order of the Hon'ble High Court and does not apply to the instant case.
 - iii. Without prejudice to whatever is stated above, the enforcement of the order of the Supreme Court and an interpretation of the same cannot be done in the above proceedings before this Hon'ble Tribunal and any such grievance if any had to be resorted to before the appropriate forum.
 - iv. Without prejudice to whatever is stated above, the said Order pertains to an area of minimum one hectare and the subject property has an area of 8276 sq. mts. Therefore the said Order is not applicable to the instant case.
12. The reliance placed on the said Supreme Court order is completely misconceived and is therefore liable to be dismissed.

13. The said application is not maintainable u/s 14 of the National Green Tribunal Act. By way of the above application, the Applicant has challenged the conversion of forest area for non-forest purposes in respect of Survey No. 90/1-A of Village Penha-de-Franca on the premise that the said survey No. is a private forest and has raised a purported substantial question relating to environment arising out of the said challenge. The property has not been notified by the Government under the provisions of the Indian Forest Act. The property is not identified as a private forest by the Sawant & Karuprukar Committee or the Deepshikha Sharma Committee which issue is concluded by the Order of the Hon'ble NGT dated 18/8/2020 in Original Application No. 479/2018 (earlier OA 18/2013). Therefore the application is not maintainable and/or liable to be dismissed.
14. The application is barred by limitation. The property was purchased in the year 1981. The said property.

The said property was not identified under the Sawant - Karapurkar Committee, which Reports were furnished on or before 2003. It is submitted that the zoning was changed in the year 1997, the High Court order was passed on 04/12/2013 in W. P. No. 534/2013 and the conversion sanad has been granted on 06/11/2014. The issue of the said property being private forest is barred by limitation.

15. As stated earlier, the said property does not qualify as a private forest and has not been identified as a private forest by the Sawant & Karapurkar nor by the Deepshikha Sharma Committee nor by the D'Souza Committee. In light of above, the same is liable to be dismissed.

Place: Pune

Date: 09/10/2020



Adv. for the Respondents

Nos. 3(a) to 3(c)