



2025 INSC 835

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). OF 2025

(ARISING OUT OF SPECIAL LEAVE PETITION (C) NO(S). OF 2025)

@ DIARY NO. 16901/2025

COMMUNIDADE OF TIVIM, TIVIM, BARDEZ GOA ...APPELLANT

Versus

STATE OF GOA & ORS.

..RESPONDENTS

J U D G M E N T

SUDHANSHU DHULIA, J.

1. Delay of 146 days in filing the Special Leave Petition is condoned. Leave granted.
2. The appellant before this court is a ‘Communidade’¹ or an agricultural association of villagers that has properties in common and the income derived from these properties accrues in favour of its members. The system is peculiar to Goa and is based on the concept of collective village ownership, which was originally called as the ‘Gaunkari System’ and the village communities owning the land collectively were known as

¹ Portuguese translation of the English word ‘Community’.

‘gaunkaria’ which ultimately came to be termed as ‘comunidades’ during the Portuguese colonisation of Goa.

3. Under challenge before us in this Appeal is the judgment dated 06.08.2024 by which the Writ Petition filed by the appellant, stood dismissed by the High Court of Bombay at Goa.
4. The High Court while doing so has upheld the order dated 13.04.2023 by which the Administrative Tribunal, Goa has refused to grant permission to the Appellant to compromise proceedings instituted by the private respondents herein (respondent Nos. 3 to 11) under the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (hereinafter ‘**Tenancy Act, 1964**’).
5. At the outset, it is necessary to mention here at this stage that the administration of Comunidades is governed by the Code of Comunidades (hereinafter ‘**the Code**’). Article 154 (3) of the Code empowers the Administrative Tribunal to grant permission to the Comunidade to compromise terms in any suit to which the Comunidade is a party.
6. The facts which have led to filing of the Writ Petition before the High Court can be summarised as under:
 - a) Two properties (hereinafter ‘**Suit Properties**’) belonging to the appellant, known as “Oiteil-De-Madel” bearing Survey

No. 448/0 & “Levelechy Aradi” bearing Survey No. 440/0 are situated in the village of Tivim in the *taluka* of Bardez in Goa and were leased to the predecessors-in-interest of the private respondents by the appellant, in July, 1978.

- b)** A civil suit was filed by the predecessor of the private respondents praying that his name be entered in the Tenants column in the Survey numbers which correspond to the two properties mentioned above. This suit was decreed on 08.01.1986 & consequently, the name of the predecessor of the private respondents was entered as tenant of the two properties. Since no appeal was preferred against the decree passed by the Trial Court, the same attained finality. Thereafter, predecessor of the private respondents herein passed away on 01.02.2015.
- c)** On 08.12.2016, the private respondents herein filed Tenancy Application No. 71/2016 before the Civil Judge, Junior Division (B-Court), Bicholim (hereinafter **‘Trial Court’**) for declaration of Tenancy under Section 7 of the Tenancy Act, 1964. Despite service of notice to the appellant by the Trial Court, no appearance was entered on its behalf, which led to the case being proceeded ex-parte against the appellant.
- d)** Vide Judgment & Order dated 01.09.2017, Trial Court allowed the Tenancy Application, consequently declaring the private respondents as agricultural tenants of the Suit Properties. Aggrieved by the declaration of tenancy, the

appellant preferred Tenancy Appeal before the Ad-hoc District Judge-I at Mapusa, Goa (hereinafter '**Appellate Court**').

- e) The above-mentioned appeal remains pending before the Appellate Court till date. All the same, during pendency of the Tenancy Appeal, an Extraordinary General Body Meeting of the appellant was held on 14.03.2021, in which members of the appellant deliberated upon the Tenancy Appeal and also considered the fact that if the appeal fails, they stand to lose a major chunk of land held by the Comunidade. It is at this meeting that the Comunidade resolved that as a compromise, the land in dispute could be bifurcated into a 60:40 sharing ratio, with 60% of the land being allotted to the private respondents and 40% of the land to be retained by the comunidade.
- f) Pursuant to the above, Managing Committee of the Comunidade had further deliberations and finally, a General Body Meeting was convened on 31.10.2021 wherein consent terms were finalised and agreed upon. All the same, before filing these consent terms before the Appellate Court, permission was needed from the Administrative Tribunal in terms of Article 154 (3) of the Code. Accordingly, on 22.02.2023, respondent No. 2 herein i.e., Administrator of Comunidades forwarded the consent terms to the Administrative Tribunal for approval.
- g) As stated earlier, by an Order dated 13.04.2023, such permission was denied by the Administrative Tribunal and

this Order of the Administrative Tribunal was assailed by the Comunidade before the High Court by way of a Writ Petition.

- 7.** The short question that arose for consideration before the High Court, which will also be before this Court is whether the Administrative Tribunal was correct in its refusal to grant the appellant, permission to compromise proceedings with the private respondents in terms of Article 154 (3) of the Code? The High Court as we know has already held that this permission could not have been granted under law.
- 8.** We have heard Mr. Huzefa Ahmadi, learned counsel for the appellant who submits that the Administrative Tribunal has erred in refusing to grant permission to the Comunidade, and as such, the High Court ought not to have upheld the Administrative Tribunal's decision. He contends that the best interests of the appellant and its members have to be considered and both the High Court as well as the Administrative Tribunal have failed to take into consideration the fact that the appellant had finalised consent terms, keeping in mind its best interest and in the absence of such terms, the suit properties would have to be regarded as 'tenanted land' which is allotted to the private respondents

herein, which would in turn be contrary to the appellant's best interests.

9. It is Mr. Ahmadi's second argument that the Code itself by virtue of Article 30 (4) (g) empowers the Comunidade to deliberate upon, the withdrawal and compromise of civil suits and this aspect of the matter was completely ignored by the High Court.
10. For the respondent no. 1-State of Goa and respondent no. 2, we have heard learned counsel Mr. Abhay Anil Anturkar, who supports the decision of the Administrative Tribunal and submits that the same warranted no interference by the High Court and hence, there is no infirmity with the order impugned. Learned counsel would argue that the consent terms sought to be entered into between the appellant and the private respondents is nothing but an attempt to bypass and negate the provisions contained in the Tenancy Act as well as the Goa Land Use (Regulation) Act, 1991 (hereinafter '**Land Use Act**').
11. In this regard, the learned Counsel has referred to Clauses i), iii), v), x) and xi) of the consent terms, which essentially confer to the private respondents '*all rights and interests, which rights shall be akin to full ownership rights*' over 60% of the land and

reciprocally, the appellant is to have '*exclusive rights free from any tenancy claim*' over 40% of land. Additionally, these clauses also stipulate that the private respondents can use and utilise 60% of the land '*for any purpose whatsoever*' in lieu of which the appellant is also entitled to use its share of 40% of land '*in the manner deemed fit and proper.*'

- 12.** It is therefore the respondent-State's contention that the proposed consent terms effectively accord freehold ownership rights over the land in question to both the parties and also allows them to use the land for non-agricultural purposes, which is in blatant violation of statutory provisions contained in the Tenancy Act as well as the Land Use Act.
- 13.** Having heard learned counsel for both the sides and having perused the material on record, we are of the considered opinion that the Administrative Tribunal has rightly refused to grant permission to the consent terms finalised by the appellant. A bare perusal of the same indicates that it is nothing but an attempt to circumvent the statutory framework laid down in Tenancy Act and also violates the Land Use Act.
- 14.** We are in complete agreement with the Administrative Tribunal, Goa which has refused to accord its permission to the filing of the consent terms. What weighed in with the

Tribunal is the fact that these terms effectively wipe out tenancy rights of the private respondents which was declared by the Trial Court vide judgment dated 01.09.2017 and by the proposed compromise, the parties have agreed that in lieu of the 60:40 bifurcation of land between them, the judgment dated 01.09.2017 stands set aside. This prompted the Tribunal to observe that instead of testing the correctness of judgment dated 01.09.2017 on merits before the appellate court, the parties intend to set aside the judgment by way of compromise.

- 15.** Moreover, the Tribunal also expressed its dismay at the fact that these consent terms have the effect of bypassing the Tenancy Act, since it confers full ownership rights to the private respondents who have been declared as tenants and any compromise which is contrary to a statute cannot be entered into by the appellant.
- 16.** Section 9 of the Tenancy Act lists down the modes of termination of tenancy and specifies that tenancy can only be terminated via three modes. The first is when the tenant himself surrenders his right of tenancy to the landlord in the manner contained in Section 10. Similarly, in the second situation, the landlord may terminate the tenancy, but only on

the basis of the specific grounds contained in Section 11. Lastly, Section 9 (c) provides for termination under any other specific provision of the Tenancy Act. It is abundantly clear that by means of the proposed compromise, the parties have essentially terminated the tenancy, without recourse to any of the modes referred to in Section 9 of the Act.

17. We shall now refer to Chapter IIA of the Tenancy Act which is titled “*Special rights and privileges of tenants.*” Section 18A in this chapter provides that every tenant shall be deemed to have purchased from his landlord, the land held by him as a tenant on the tillers’ day, subject to other provisions of the Act. This chapter then lays out the procedure to be followed. Section 18C provides for the Mamlatdar to first issue public notice to the tenants who are deemed to have purchased the lands as well as the landlords of such lands and other interested persons. The purchase price payable by a tenant to the landlord is then indicated in the Table contained in Section 18D. We must also take note of the fact that Section 18K of the Tenancy Act prohibits a tenant who has purchased the land from transferring the land without the Mamlatdar’s prior permission. If the proposed consent terms are to be allowed, not only would the tenant be conferred full ownership rights,

in complete disregard of the procedure for purchase mentioned above, but it would also mean that the tenant would be conferred a right to alienate land, without seeking permission of any statutory authority.

- 18.** It is also important to take note of the fact that even after a tenant has purchased the land in question after complying with the procedure contemplated under Chapter IIA, he is barred from using the land for any purpose other than agriculture, as per Section 2 of the Land Use Act, which reads as under:

***“2. Regulation of use of land.—** Notwithstanding anything contained in the Goa, Daman and Diu Town and Country Planning Act, 1974 (Act 21 of 1975), or in any plan or scheme made thereunder, or in the Goa Land Revenue Code, 1968 (Act 9 of 1969), no land which is vested in a tenant under the provisions of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Act 7 of 1964) shall be used or allowed to be used for any purpose other than agriculture.”*

- 19.** A bare reading of the aforementioned provisions is enough to come to the conclusion that the proposed consent terms or the compromise sought to be entered by the appellant with the private respondents falls foul of both the statutes i.e., the Tenancy Act and the Land Use Act, insofar as it creates freehold ownership rights over tenanted land, without

resorting to the procedure contemplated for the purchase of such land by the tenant and secondly, for the reason that these terms effectively allow the appellant, as well as the private respondents, to use an agricultural land for non-agricultural purposes. In other words, the compromise not only circumvents procedural aspects contained in Chapter IIA of the Tenancy Act but also allows the parties to use the suit properties for a purpose which is expressly barred by the Land Use Act. The compromise sought by the parties is nothing but an abuse of the process of law. The so called compromise or agreement is a ploy to defeat the provisions of law and therefore it has been rightly denied the legal sanctity which was sought.

- 20.** As regards the submission of the learned counsel relating to Art. 30 (4) (g) of the Code, it is to be noted that the said provision merely empowers a Comunidade to deliberate upon terms of compromise, which upon finalisation, has to be forwarded to the Administrative Tribunal. By no stretch of imagination can this provision be construed to mean that it confers an unfettered power on the Comunidade to enter into a compromise, without the Tribunal's sanction.

- 21.** Hence, we see absolutely no reason to interfere with the order dated 06.08.2024 passed by the High Court of Bombay at Goa.
- 22.** Consequently, this appeal stands dismissed. Pending application(s), if any, shall stand disposed of.
- 23.** All the same, we deem it necessary to clarify that we have expressed no opinion whatsoever on the merits of the dispute between the appellant and private respondents as regard the claim of Tenancy. The Tenancy Appeal filed by the appellant before the Appellate Court shall be decided on its own merits, in accordance with law.

.....**J.**
[SUDHANSHU DHULIA]

.....**J.**
[K. VINOD CHANDRAN]

NEW DELHI;
JULY 14, 2025.