

IN THE HIGH COURT OF BOMBAY AT GOA

LD-VC-CW-262-2020

Smt. Vipul Nilesh Naik alias Vipulata
Nilesh Naik 46 years of age,
Widow of late Nilesh Gangaram Naik,
Resident of Flat No. B-2, 2nd Floor,
Cariammoddi, Near Canara Bank, Petitioner
Pontemol, Curchorem, Goa

V/s.

- 1 The State of Goa,
Through its Chief Secretary, Secretariat,
Porvorim, Goa.
- 2 The Additional Director of Transport,
Office of the Assistant Directorate of
Trnasport, Registration and Transport
Office, Bicholim, Goa.
- 3 Shri Babal Gangaram Naik,
Major of age, Son of late Gangaram Daji
Naik, Resident of House No.325, Near
Ganesh Temple, Velguem, Taluka
Bicholim, North Goa- 403 506.
- 4 Smt. Teja Babak Naik alias Tejya Babal
Naique,

Major of age, Wife of Shri Babal Gangaram Naik, Resident of House No.325, Near Ganesh Temple, Velguem, Taluka Bicholim, North Goa- 403 506.

- 5 Shri Rajesh Gangaram Naik, Major of age, Son of late Gangaram Daji Naik, Resident of House No.325, Near Ganesh Temple, Velguem, Taluka Bicholim, North Goa – 403 506.
- 6 Miss. Sunanda Gangaram Naik, Major of age, Daughter of late Gangaram Daji Naik, Resident of House No.325, Near Ganesh Temple, Velguem, Taluka Bicholim, North Goa – 403 506.
- 7 Smt. Sushanti Suresh Naik, Major of age, Widow of late Suresh Gangaram Naik, Resident of House No.325, Near Ganesh Temple, Velguem, Taluka Bicholim, North Goa – 403 506.
- 8 Miss. Sunisha Suresh Naik, Major of age, Daughter of late Suresh Gangaram Naik, Resident of House No.325, Near Ganesh Temple, Velguem, Taluka Bicholim, North Goa – 403 506.
- 9 Kumari Sunidhi Suresh Naik,

Minor, Daughter of late Suresh Gangaram Naik, Resident of House No.325, Near Ganesh Temple, Velguem, Taluka Bicholim, North Goa – 403 506.

(Represented by her natural guardian and mother i.e. Respondent no.7)

10 Smt. Sumitra Gangaram Naik alias Arushi Ashish Tamnkar, Major of age, Daughter of late Gangaram Daji Naik and wife of Mr. Ashish Dharma Tamankar

11 Shri Ashish Dharma Tamankar, Major of age, Son of Dharma Tamankar

Both ate residing at H.No.226, Sai Niwas, Vithalapur, Lalbag, Carapur, Taluka Bicholim, North Goa – 403 505.

.... Respondents

Mr. A. D. Bhohe, Advocate for the petitioner.

Mr. D.J. Pangam, Advocate General with Mr. Shivdatta Munj, Additional Government Advocate for respondents No.1 & 2.

Mr. D. Zaveri, Advocate for the respondents No.3 to 11.

CORAM : M.S. SONAK &

SMT. M.S. JAWALKAR, JJ.

DATE : 2ND NOVEMBER,2020.

ORAL JUDGMENT: (*PER M. S. SONAK, J.*)

Heard Mr. A. D. Bhohe, learned Advocate for the petitioner, Mr. D.J. Pangam, learned Advocate General with Mr. Shivdatta Munj, learned Additional Government Advocate for respondents No.1 & 2 and Mr. D. Zaveri, learned Advocate for the respondents No.3 to 11.

2. We issue a Rule in this petition. With the consent and at the request of the learned Counsel for the parties we make Rule returnable forthwith.

3. The petitioner claims to be the widow of late Nilesh Naik. The following vehicles were registered in the name of Late Shri Nilesh Naik with the Regional Transport Authority :

a. Item No.I: Hyundai i20 Reg.No.GA-09-A-2394;

b. Item No.II: Tata Tipper Reg.No.GA-02V-7608;

c. Item No.III: Eicher Tipper Reg.No.GA-04-T-3014;

d. Item No.IV: Tata Bus Reg.No.GA-04-T-1405;

e. Item No.V: Tata Bus Reg.No.GA-04-T-5027

f. Item No.VI: Hero Honda Motor Cycle Reg. No.

GA-01-B-9791 and

g. Item No.VII: Suzuki Access Reg. No. GA-04-K-1763

4. Upon the demise of Nilesh Naik she had applied for the transfer of registration in her name to the Regional Transport Authority (RTO). The applications have to be made online.

5. The RTO, on its portal, has published the following remark:

BlackList Status : Blacklisted by BICHOLIM RTO, Goa due to reason others, AS PER ADTS ORDER, APPLICATION RECEIVED FROM BABAL NAIK NOT TO TRANSFER THE VEHICLE.

6. The petitioner challenges the blacklisting on the ground that the RTO, in the absence of any order from the Competent Court, could not refuse to transfer the vehicles or issue any blacklisting orders, only on the basis of the claim from Babal Naik or any other party.

7. Mr. D. Zaveri, learned Counsel for the respondents No.3 to 11 (which includes Mr. Babal Naik) has pointed out that these respondents have instituted RCS No.42/2020/C in the Court of Civil Judge Junior Division, Bicholim, in which, they had applied for interim reliefs restraining the transfer of the aforesaid vehicles. He points out that the learned Civil Judge has referred the parties to mediation and the application for interim relief is pending disposal for receipt of the mediation report.

8. Mr. Bhohe, learned Counsel points out that no mediation is possible in this matter as the petitioner relies on the aforesaid vehicles for her sustenance. He further points out that neither the petitioner nor any of the respondents will be benefited by stalling the transfer of the vehicles, as the vehicles will suffer from dispute, for want of transfer of registration.

9. The learned Advocate General points out that this is not a case of blacklisting of any vehicle though the portal may say so. He points out that the application for transfer is only kept on hold on account of the complaint received from Babal Naik.

10. According us, merely because one of the parties complains, the Authorities cannot keep the application for transfer on hold. This is not a case where any interim order has been made by the Competent Court restraining the Authorities from disposing off the transfer application.

11. Therefore, we direct the concerned RTO to dispose off the petitioner's application for transfer of the aforesaid vehicles in accordance with law and on its own merits as expeditiously as possible and in any case within a period of 15 days from today.

12. We, however, make it clear that if such transfer is ordered, the same will be subject to any interim or final orders that will be made in RCS No.42/2020/C pending before the Court of Civil Judge Junior Division at Bicholim. Therefore, only because the transfer applications have disposed of one way or other, the same, in no manner affect the powers or the jurisdiction of the learned Civil

Judge to make appropriate orders in the pending Civil Suit or in the pending application for interim relief.

13. The learned Civil Judge Junior Division at Bicholim to also dispose off the application for interim reliefs as expeditiously as possible on their own merits and in accordance with law.

14. Rule is made absolute in this petition to the aforesaid extend. There shall be no order as to costs.

15. All concerned to act on the basis of the authenticated copy of this order.

SMT. M.S. JAWALKAR, J.

M.S. SONAK, J.

MV