

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA**LD-VC-CW-194-2020**Morombi-O-Grande Tenants
Association.

..... Petitioner.

Versus

State of Goa and others.

..... Respondents.

Mr. Rohit Bras de Sa, Advocate for the Petitioner.

Mr. D.J. Pangam, Advocate General with Ms. Ankita Kamat, Addl.
Govt. Advocate for Respondents No.1 and 2.

Mr. A.D. Bhohe, Advocate for Respondent No.5.

**Coram : M.S. Sonak &
Smt. M.S. Jawalkar, JJ.****Date : 5th January, 2021.****P.C. :-**

In our order dated 15/12/2020, we had made it clear that if, on this date, the Petitioners do not appear either by themselves or through their Advocate, this Court will be constrained to decide this matter in their absence. Today, though the names of the two Petitioners were called out, they are neither present, nor represented. Mr. D'Sa states that he has informed the Petitioners of today's hearing in his notice and expressed inability to appear any further in this matter.

2. Mr. D'Sa requests that he may be discharged from appearing in this matter any further. Since, necessary notice has already been given to the Petitioners, we discharge Mr. D'Sa from appearing in this matter.

3. Despite opportunity, the Petitioners are neither present, nor represented. At the behest of the Petitioners, we had, by our order dated 8/12/2020, required the Mamlatdar to once again visit the site of the sluice gate and sort out the issue of access.

4. In pursuance of our orders, the Mamlatdar did carry out a site inspection in presence of the parties and placed an inspection report on record. In terms of the report, there is no obstruction whatsoever to the access to the sluice gate in question. The learned Advocate General also clarified that this is not a case where the government is getting any revenue from auction of the sluice gate. Therefore, from the material on record, we are of the *prima facie* opinion that the disputes raised in this Petition are basically private disputes between the Petitioners and Respondent No.5 on the issue of access to the sluice gate.

5. Resolution of such disputes would involve adjudication into the disputed questions of fact. Accordingly, it would not be proper for us to exercise our extraordinary jurisdiction under Article 226 or

227 of the Constitution of India in a matter of this nature. Therefore, we dismiss this Petition, but grant liberty to the Petitioners to pursue any ordinary remedies which they may have under law. We make it clear that we have not adjudicated any of the disputed issues in this Petition and, therefore, all contentions of all the parties, are specifically kept open. Our observations in this order are only *prima facie* and the same need not influence any Court or the Authority, should the Petitioners choose to approach any Court or the Authority for resolution of their disputes.

6. With these observations, we dispose of this Petition.
7. There shall be no order as to costs.

Smt. M.S. Jawalkar, J.

M.S. Sonak, J.