IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.233 OF 2023
AND
MISCELLANEOUS CIVIL APPLICATION NO.2237 OF 2026 (F)

M/s. Costa and Company Pvt. Ltd.,
A Company registered under
The Indian Companies Act, 1956
with its registered office at
Aquem, Goa,
Represented herein by its
Authorized representative
Shri Manjunath Sriniwas Pai Dukle
52 years of age,
Son of late Sriniwas Pai Dukle,
Resident of Flat No.T/11,
Sitaram Residency,
Aquem, Margao, Salcete Goa,
(Authorized vide Board Resolution
Dated 24/12/2020) ..Petitioner

Versus

The Collector,
South Goa District,
Office of the Collector, South Goa,
Room No.449, 4th Floor, Matanhy Saldhana,
Administrative Complex,
Margoa-Goa. ..Respondent

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Mr. G. K. Sardessai with Ms. Smrati Bengera, Advocates for Petitioner.
Mr. Deep Shirodkar, Additional Government Advocate for Respondent.

…

CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : 19th AUGUST, 2026.
PRONOUNCED ON : 25th AUGUST, 2026.

JUDGMENT:-

1. Rule. Rule made returnable forthwith. With consent of parties, matter is heard finally at admission stage.

2. The petitioner impugns order dated 06.01.2023 passed by Administrative Tribunal, Goa, Panji-Goa in Land Revenue Appeal No.1/2021 as well as order bearing No.COL/SG/CONV/61/2010/14665 dated 24.12.2020 passed by Collector, South Goa District, thereby declining to entertain application dated 20.10.2020 filed by petitioner seeking rectification/correction of conversion Sanad bearing no.COL/SG/CONV/61/2010/6277 dated 29.06.2011.

3. The petitioner was willing to carry out development in plot admeasuring 9360.00 sq. meters of property bearing Chalta No.4 of P.T. Sheet No.226 of Margaon City. The said plot was in C-2 Zone having 150 FAR under 'A' class municipalities. The petitioner filed an application dated 12.10.2010 before Collector, South Goa under Section 32 of Goa, Daman and Diu Land Revenue Code, 1968 (hereafter referred to as 'Code') seeking conversion of plot from non-agriculture to commercial/residential use. The respondent favourably processed petitioner's application for conversion and directed petitioner to pay fees @ Rs.120/- per sq. meter under Section 32(6)(iii)(b) of the Code. The petitioner has accordingly deposited conversion fee as Rs.11,23,200/-. However, inadvertently Sanad is issued for residential purposes.

4. The petitioner could not note aforesaid error immediately after grant of permission. However, when petitioner was desirous of

commencing development activities realized error crept into conversion Sanad dated 29.06.2011 and made rectification application dated 20.10.2020 invoking Section 32(7) r/w Section 187 of the Code, which came to be dismissed vide order dated 24.12.2020 observing that petitioner's application was for conversion for residential purpose. Accordingly, application was processed, hence, rectification/correction cannot be entertained under the Code. The petitioner was further directed to apply afresh for conversion of Sanad for commercial purpose.

5. Aggrieved petitioner filed Land Revenue Appeal No.1/2021 under Section 188(1)(c) of the Code before Administrative Tribunal, which came to be dismissed upholding order dated 24.12.2020 passed by Collector, South Goa. Hence, this Writ Petition.

6. Mr. G. K. Sardessai, learned Advocate appearing for petitioner would submit that petitioner's application dated 12.10.2010 was processed for commercial/residential development, as plot is located in commercial zone under 'A' class municipalities. Accordingly, prescribed fees under Section 32(6) of the Code was charged @ Rs.120/- per sq. meter as applicable to commercial user in C-2-150 FAR. However, taking disadvantage of inadvertent mistake in application, whereby petitioner stated purpose of conversion for residential use, his application for rectification is rejected by giving

technical interpretation to provisions of the Code. The respondent was well aware about petitioner's intention to seek conversion for commercial use and location of plot in commercial area and recovered fees as applicable for conversion of non-agriculture land for commercial user.

7. Per contra, Mr. Deep Shirodkar, learned Advocate appearing for respondent would submit that petitioner's application was specifically made seeking conversion for residential purpose. Accordingly, NOC from various departments was called and Sanad for residential purpose was issued. Section 32(7) or Section 187 of the Code cannot be invoked in facts of case, as there is no error in issuance of Sanad. He would justify impugned orders and urge this Court to not to invoke supervisory jurisdiction under Article 227 of Constitution of India, which is limited to see that inferior Court or Tribunal functions within limits of its authority. In support of his contentions, he relies upon observations of Supreme Court in case of ***Mohd. Yunus Vs. Mohd. Mustaqim and Others***[1].

8. Having considered submissions advanced by learned Advocates appearing for respective parties, it can be observed that petitioner made application under Section 32 of the Code seeking permission for conversion of non-agriculture land for residential use only. Accordingly, respondent issued Sanad dated 29.06.2011. The Sanad

1 **(1983) 4 SCC 566.**

shows that conversion is sanctioned for residential purpose with permissible F.A.R 150%, as land is located in commercial zone as per report of Town Planner. The petitioner was charged conversion fees of Rs.11,23,200/-. Undisputedly, conversion fees was quantified at the rate fixed for change of use from non-agriculture to commercial purpose.

9. No explanation is coming forward from respondent as to why conversion fees was charged for commercial use, if petitioner's application was for residential use. It is not in dispute that petitioner's property is located in commercial zone having F.A.R. 150% as per report of Town Planner. There is huge difference in conversion fees for commercial purpose as compare to residential purpose. In this backdrop, there is no difficulty in accepting petitioner's contention that his application was processed for conversion of land to commercial use.

10. The petitioner's application for rectification was made in year 2020, when petitioner was intending to commence development. The possibility that petitioner realized error in Sanad at that time cannot be rejected in aforesaid factual backdrop. The respondent/State has already received conversion charges as applicable in year 2011 for commercial use, therefore, there would be no loss to State if petitioner's prayer for rectification/correction of Sanad is considered.

11. Section 187 of the Code empowers Revenue Officer to correct error or omission in any order passed in case or proceeding, either on

his motion or on application of party, if such error or omission does not affect material part of case or proceeding. Similarly, sub-clause (7) of Section 32 empowers Collector to correct any clerical or arithmetical error in Sanad arising from any accidental slip or omission.

12. Apparently, petitioner's application was processed for conversion of land to commercial use. The respondents have charged treating petitioner's application for commercial/industrial housing. The petitioner's property is also situated in commercial zone, naturally there was no reason for petitioner to seek conversion for residential use and pay conversion charges for commercial/industrial use. This Court finds that if State has recovered conversion charges as per commercial rate as applicable at relevant time and issued Sanad for residential use, may be on account of inadvertent error in application, such error can definitely be rectified.

13. At this stage Mr. Shirodkar, learned Advocate appearing for respondent submits that petitioner is already advised to file fresh application seeking conversion from residential to commercial use. The Tribunal has observed that excess fees deposited by petitioner while obtaining Sanad for residential use can be appropriated. This Court finds that if petitioner is charged for conversion as per present rates, he will have to deposit excessive and exorbitant conversion fees. The person cannot be taxed twice for one and the same purpose. The State

cannot be permitted to recover double charges from citizen and make unjust enrichment. Pertinently, Apex Court in case of ***Union of India and Anr. Vs. Mahajan Industries Ltd. And Anr.***[2] giving reference to decision of Delhi High Court in case of ***Ansal & Saigal Properties (P) Ltd. & Ors. Vs. L&D.O. & Ors.***[3] observed that crucial date for calculating conversion charges has to be date of receipt of application for conversion. In present case, petitioner's application with conversion charges for commercial use was filed in year 2011. As such, charges have been already recovered. The respondent as well as Tribunal adopted hyper-technical and unreasonable approach while declining to entertain petitioners' application, so also failed to exercise jurisdiction vested with them in judicious manner. In this backdrop, this is a fit case to entertain and allow Writ Petition in exercise of Writ jurisdiction under Articles 226 and 227 of Constitution of India.

14. In result, Writ Petition is allowed in terms of prayer Clause (A).

15. In view of disposal of Writ Petition, present Civil Application also stands disposed of.

16. Rule is made absolute in above terms.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/August-2026

2 **2005 Supreme (SC) 326.**
3 **(1998) 74 DLT 152.**