

IN THE HIGH COURT OF BOMBAY AT GOA
CIVIL APPLICATION (REVIEW) NO. 29 OF 2014
IN
PUBLIC INTEREST LITIGATION WP NO. 12 OF 2013

MRS. IRENE MASCARENHAS. ... Applicant
Versus
THE STATE OF GOA THROUGH THE CHIEF
SECRETARY GOVT. OF GOA AND 15 ... Respondents
ORS.,

Shri. Ryan Da Piedade Menezes, Advocate for the petitioner.
Shri P. Dangui, Additional Govt. Advocate for respondents No.1, 3, 7
and 8.
Shri J. Supekar, Advocate for respondents No.4, 5 and 6.

Coram:- F. M. REIS &
K. L. WADANE, JJ.

Date:- 5th January, 2015

P.C.:

Heard Shri Ryan Menezes, learned Counsel appearing for the petitioner, Shri P. Dangui, learned Additional Govt. Advocate appearing for respondents No.1,3,7 and 8 and Shri J. Supekar, learned Counsel appearing for the private respondents No.4, 5 and 6.

2. The above petition seeks review of the order passed by this Court dated 6th February, 2014, whereby the writ petition filed by the petitioner, inter alia, challenging the sanctioned plan in favour of the private respondents, came to be rejected. Shri Ryan Menezes, learned Counsel appearing for the petitioner has pointed out that

there is an error apparent on the face of record whilst disposing of the writ petition filed by the petitioner, inasmuch as the access accepted by this Court is not available at the site. The learned Counsel has pointed out that the private respondents have misrepresented the position at loco by showing an access of 3 metres towards the eastern side which is not in existence and the 10 metres O.D.P. road towards the southern side which, according to him, does not touch plot No.5 belonging to the private respondents. The learned Counsel further points out that in the original sanctioned plan there was a specific condition to the effect that plot Nos. 4 and 5 should not be independently developed. The learned Counsel further points out that as these facts have been erroneously considered by this Court whilst passing the order, dismissing the writ petition, there is an error apparent on the face of the record which calls for review of the said order.

3. On the other hand, Shri J. Supekar, learned Counsel appearing for the private respondents has pointed out that the Authorities have taken precaution to ensure that the conditions imposed with regard to the accesses which are required to be maintained in terms of the development regulations have been duly complied with by the respondent Nos. 4, 5 and 6. The learned Counsel further points out that the private respondents have an access to go to the 10 metres wide ODP road. The learned Counsel further points out that apart from that, on the eastern side there is also a 3 metres reserved access

towards the eastern side of the disputed plot. The learned Counsel further points out that all the conditions imposed by the Authorities have been duly complied with by the private respondents and, as such, there is no question of any review of the order passed by this Court. The learned Counsel submits that the petitioner and the respondents are not family members.

4. We have considered the submissions of the learned Counsel appearing for the parties and we have gone through the record. It is well settled that a review cannot be an appeal in disguise. In the present case, the contentions sought to be raised by Shri Menezes, have been taken note of by this Court whilst passing the order, dismissing the writ petition. As rightly pointed out by Shri Supekar, learned Counsel appearing for the private respondents, the Authorities have taken precaution to ensure that the private respondents, while carrying out the developments, maintain the accesses in terms of the development regulations. In such circumstances, we find no merit in the above review petition which stands, accordingly, rejected.

K. L. WADANE, J.

F. M. REIS, J.

ssm.