

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 288 OF 2015

1. Mr. Benjamin Charles,
major of age,
Resident of Flat No. 721, Gera's Astoria,
Caranzalem Goa.
2. Mrs. Usha Sivan,
major of age,
Resident of Flat No. 322, Gera's Astoria,
Caranzalem Goa.
3. Mrs. Aswini Sail,
major of age,
Resident of Flat No. 425,
Gera's Astoria,
Caranzalem Goa.
4. Mr. Rohit Pai,
Major of age,
Resident of Flat No. 721,
Gera's Astoria,
Caranzalem Goa.
5. Mehrunnisa Nooruddin Rehman
Major of age,
Resident of Flat No. 120,
Gera's Astoria,
Caranzalem Goa. Petitioners

V e r s u s

1. Corporation of the City of Panaji
Panaji Goa.
2. Commissioner
Corporation of the City of Panaji
Panaji Goa.
3. Gera Development Pvt. Ltd.,
G11, Ground Floor, Gera Imperium
Near Kamat Towers,
Patto Plaza,
Panaji Goa.

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4. State of Goa,
through Chief Secretary,
Secretariat, Porvorim Goa.

5. Collector,
Collectorate Building,
North Goa District,
Panaji.

.... Respondents

Mr. S. Mahambrey, Advocate for the petitioners.

Mr. P. Faldessai, Addl. Government Advocate for respondent nos. 4 and 5.

Mr. A. D. Bhobe, Advocate for respondent nos.1 and 2.

Mr. Anthony D'Silva, Advocate for respondent no.3.

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

Date :- 8th May, 2015

ORAL JUDGMENT (Per F. M. Reis, J)

Heard Mr. S. Mahambrey, learned counsel appearing for the petitioners, Mr. A. D. Bhobe, learned counsel appearing for the respondent nos. 1 and 2, Mr. A. D'Silva, learned counsel appearing for the respondent no.3 and Mr. P. Faldessai, learned Addl. Government Advocate appearing for respondent nos. 4 and 5.

2. Rule. Heard forthwith with the consent of the learned counsel.

3. The learned counsel appearing for the respective respondents waive service.

4. We have heard the rival contentions on the last date of hearing. The main grievance of the petitioners was that the building occupied by the petitioners do not have proper drainage leading to the storm water drain on the other side of the main road. Consequently, directions were issued to the concerned Department to examine as to how such work could be expeditiously completed. It is pointed out by the petitioners that such work has to be completed before ensuing monsoon.

5. It was agreed that the respondent no.3 who was a builder of the concerned building would take responsibility to carry out such work at the cost of the respondent no.3 after obtaining requisite sanctions from the Municipal Corporation. The learned counsel appearing for the Municipal Corporation has produced a sanction subject to the conditions imposed therein to permit such work to be carried out by the respondent no.3. The learned counsel appearing for the respondent nos.4 and 5 upon instructions has stated that he has placed on record the minutes of the meeting to point out the modality in which the road digging at

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the site would have to be effected without causing much inconvenience to the flow of traffic. The other conditions are also stated in the minutes of the meeting dated 04.05.2015. The learned Addl. Government Advocate also states upon instructions that the road digging can continue for 10 days from 20.05.2015.

6. The learned counsel appearing for the respondent no.3 has produced the minutes of the order which is taken on record and marked 'X' for identification. The said minutes of order are signed by the respondent no.3 and the learned counsel appearing for the respondent no.3. The respondent no.3 has taken the responsibility to complete the work and upon instructions Mr. D'Silva, learned counsel for the respondent no.3 states that clause no.4 of the said minutes of order may be treated as an undertaking to this Court. As far as the clause no.5 of the said minutes of the order is concerned, in case such situation arises the petitioners shall also co-operate with the respondent no.3 to ensure that no such incident occur at the site. Needless to say that in case the respondent no.3 seeks for police protection, the same shall be examined by the concerned authorities in accordance with law.

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7. Taking the said minutes of the order filed by the respondent no.3 on record, we dispose of the above petition. Rule stands disposed of in above terms. Liberty to the parties to apply. Compliance report to be filed by the respondent no.3 on 29.06.2015.

K. L. WADANE, J

F. M. REIS, J

at*