

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 551 OF 2014

Shri Nitin Yeshwant Patekar,
son of Shri Yeshwant Patekar,
of major age, Indian National,
resident of House no. 369,
Oxelbag, Dhargal, Pernem, Goa.

... Petitioner

V e r s u s

1. The Deputy Town Planner,
Town & Country Planning
Department, Government of
Goa, Pernem Taluka Office,
Pernem, Goa.
2. The Town Planner,
Town & Country Planning Department,
Government of Goa, Pernem Taluka Office,
Pernem, Goa.
3. The Chief Town Planner,
Town & Country Planning Department,
Government of Goa, Dempo Towers, 2nd Floor,
Patto Plaza, Panaji, Goa.
4. Mrs. Maria Luisa Quadros,
of major age, Indian National, resident of
FFI, Delfina Apartments,
P.O. National Institute of
Oceanography, Dona Paula,
Goa.

... Respondents

Mr. D. Pangam, Advocate for the Petitioner.

Mr. D. Lawande, Government Advocate for the Respondent nos. 1 to 3.

Ms. R. Kantak, Advocate for the Respondent no. 4.

Coram :- **F. M. REIS,**
 C. V. BHADANG, JJ.

Date : **23rd November 2015**

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

Heard Shri Pangam, learned Counsel appearing for the Petitioner, Mr. D. Lawande, learned Government Advocate appearing for the Respondent nos. 1 to 3 and Ms. Kantak, learned Counsel appearing for the Respondent no. 4.

2. Rule. Heard forthwith with the consent of the learned Counsel. Learned Counsel appearing for the Respondents, waives service.

3. We have heard the learned Counsel appearing for the respective parties and we have also gone through the records. The main grievance of the Petitioner is that the Respondent no. 4, according to the Petitioner, is carrying out hill cutting without the requisite permission from the Chief Town Planner in terms of the Town and Country Planning Act. But, however, Shri D. Lawande, learned Government Advocate appearing for the Respondent nos. 1 to 3, has pointed out that a show cause notice has already been issued by the Department dated 31.08.2015, though, in terms of the said Act, such show cause, if at all, had to be issued by the Chief Town Planner. Learned Government Advocate further pointed out that as such a fresh show cause notice shall be issued within two weeks from today.

4. Ms. Kantak, learned Counsel appearing for the Respondent no. 4, disputes the allegations in the Petition and submits that the Respondent no. 4 has not committed any breach of any of the provisions of law and, in fact, the allegations of the Petitioner have been disputed before the concerned authority.

5. Taking note of the statement of the learned Government Advocate to the effect that a fresh show cause notice shall be issued within a period of two weeks, we find it appropriate to dispose of the above Writ Petition by accepting the said statement of the learned Government Advocate appearing for the Respondent nos. 1 to 3. However, in case such show cause notice is issued, the Respondent no. 4 shall be at liberty to raise all objections and defence with that regard. The Chief Town Planner shall take a decision on such show cause notice after hearing the Respondent no. 4 including the Petitioner in accordance with law preferably within four months. We make it clear that we have not examined the correctness of the rival contentions and as such all contentions of both the parties on merits are left open.

6. The Petition stands disposed of in the above terms. Rule stands disposed of accordingly.

C. V. BHADANG, J.

F. M. REIS, J.

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