

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 257 OF 2006

1. Countrywide Projects Pvt. Ltd.,
a Company incorporated under
the Companies Act, 1956 and
having its registered office at
118, Shahpur Jat, J. P. House,
New Delhi.
2. Mr. Rahul Bansal,
Director of Countrywide
Projects Pvt. Ltd.,
residing at 756 Asiad Village,
Makhan Singh Block,
New Delhi and having his
local address at Survey No.117/1-A,
Village Morjim Goa. ... Petitioners

V e r s u s

1. Goa Coastal Zone Management Authority,
through its Member Secretary,
having its office opposite
Saligao Seminary,
Bardez Goa.
2. State of Goa,
through its Chief Secretary,
having office at Secretariat,
Porvorim Goa.
3. The Chief Electrical Engineer,
Electricity Department,
Government of Goa,
Vidyut Bhavan,
Panaji Goa.
4. The Chief Engineer,
Public Works Department,
Government of Goa,
Altinho, Panaji Goa.

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5. Union of India,
through the Ministry of
Environment and Forests,
New Delhi.

... Respondents

Mr. Y. V. Nadkarni with Ms. D. Shirgam, Advocates for the petitioners.

Mr. D. Lawande, Government Advocate for the respondent nos. 1 to 4.

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

Date :- 11th March, 2015

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

Heard Mr. Y. Nadkarni, learned counsel appearing for the petitioners and Mr. D. Lawande, learned Government Advocate appearing for the respondent nos. 1 to 4.

2. We have extensively heard Mr. Y. Nadkarni, learned counsel appearing for the petitioners in support of the above Writ Petition who has inter-alia raised the contention that the High Tide Line claimed by the authorities while passing the impugned order is not in accordance with the directions issued in terms of the CRZ Notification of 1991. The learned counsel further pointed out that the High Tide Line is not uniformly fixed at the site as according to

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him only at the place where the disputed structure of the petitioners is located, the High Tide Line is not uniform and is beyond the other authorised constructions located towards the northern and southern side of the property of the petitioners. The learned counsel further pointed out that the petitioners have brought material on record to contend that the construction under dispute was in existence much before the Notification in the year 1991 which the authorities have erroneously discarded. The learned counsel further pointed out that the petitioners are also entitled in terms of CRZ Notification as amended in the year 2011 to even seek for reconstruction and other protection based on which the petitioners have filed an application for amendment. The learned counsel further pointed out that considering the new material produced on record and in view of the fact that the High Tide Line assumes by the authorities is not in accordance with the provisions of the CRZ Notification of 1991, it would be appropriate to call upon the respondent no.1 to examine the matter afresh and pass a fresh order on the show cause notice under dispute. The learned counsel has brought to our notice that the orders of disconnection of electricity and water supply were passed much before the date fixed for hearing on the show cause notice.

3. On the other hand, Mr. D. Lawande, learned

Government Advocate appearing for the respondent nos. 1 to 4 has disputed all the contentions raised by the learned counsel appearing for the petitioners. The learned counsel has pointed out that the construction under dispute is in breach of CRZ Notification of 1991 and according to him, the impugned order does not call for any interference. The learned Government Advocate however, accepts that at the site where the property of the petitioners is located, the High Tide Line is not uniform on account of the river water allowed to be entered, for parking the trawlers and other activities. The learned counsel further pointed out that the authorities may be called upon to re-examine the matter in accordance with law.

4. We have considered the submissions of the learned counsel and we have also examined the records. Taking note of the admitted position that at the site where the property of the petitioners is located, the High Tide Line apparently is not uniform, it would be appropriate for the authorities to first fix the High Tide Line of the concerned river in terms of the CRZ Notification of 1991. After such High Tide Line is fixed, the authorities would have to examine the show cause notice dated 24.05.2004 afresh after hearing the petitioners in accordance with law.

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5. Mr. Nadkarni, learned counsel appearing for the petitioners upon instructions states that until the show cause notice is finally disposed of by the respondent no.1, the petitioners shall not create any third party rights or carry out any construction or extension to the existing structure under dispute located in the property surveyed under No. 117/1-A of Village Morjim nor carry out any business activities therein. Considering the rival contentions and taking note of the grievances in the above Writ Petition, we find it appropriate to pass the following :

O R D E R

- (i) The orders dated 25.05.2006, 30.11.2005 and 01.12.2005 are quashed and set aside.
- (ii) The respondent no.1 is accordingly directed to decide the show cause notice dated 24.05.2004 afresh in the light of the observations made herein above after hearing the petitioners in accordance with law.
- (iii) The petitioners, if so advised are at liberty to file an additional reply raising the contentions available to the petitioners in law.
- (iv) Until the disposal of the said show cause notice, the petitioners shall not create any third party right or make any alteration or structural

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changes to the construction in question nor carry out any business activities therein.

(v) All contentions of both the parties on merits of the construction in question are left open.

(vi) The respondent no.1 shall dispose of such show cause notice as expeditiously as possible and in any event on or before 31.12.2015.

(vii) Rule is made absolute in above terms.

(viii) The petition stands disposed of accordingly.

K. L. WADANE, J

F. M. REIS, J

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