

IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO. 424 OF 2015.

Shri Auduth Timblo, Age, 66 years,
married, Occupation-businessman,
Resident of G-9, La marvel Colony,
Dona Paula, Goa 403 004.

..... Petitioner.

Versus

- 1 State of Goa, Through its Chief
Secretary, Having office at
Secretariat, Porvorim, Goa.
- 2 The Town Planner The Town
and Country & Planning
Department, 2nd Floor, Govt
Office Bldg, Opposite Axis Bank,
Ponda-Goa.
- 3 The Deputy Collector & Sub-
Divisional Magistrate, In-charge
of Flying Squad, Margoa-Goa.
- 4 The Police Inspector, Ponda
Police Station, Ponda, Goa. Respondents.

Mr. Sudesh Usgaonkar and Ms. R. Pereira, Advocates for the
petitioner.

Mr. A. N. S. Nadkarni, Advocate General with Mr. D. Lawande,
Government Advocate for the respondents no. 1 to 4.

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

Date:-24th June, 2015.

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

Heard Mr. Sudesh Usgaonkar, learned Counsel
appearing for the petitioner and Mr. A. N. S. Nadkarni, learned
Advocate General appearing for the respondents no. 1 to 4.

2. Rule. Heard forthwith with the consent of the learned counsel appearing for the parties. The learned counsel for the respondent waives service.

3. The grievance of the petitioner in the above petition is that the impugned show cause notice is without application of mind by the concerned authority. According to the petitioner, the petitioner was not personally responsible for the alleged breaches referred to in the show cause notice nor the land is owned by the petitioner. The petitioner, however, admits that the subject land belongs to the Private Limited Company. The learned Advocate General has filed an affidavit of the Deputy Collector/respondent no. 3 and paragraph 5 inter alia states that the show cause notice could not have been issued without proper inquiry with regard to the ownership of the occupants of the subject property. It is further reflected in the affidavit that, as such, the respondent no.3 shall withdraw the show cause notice and proceed to issue a fresh show cause notice, if so, required to the concerned company in accordance with law.

4. In view of the said statement of the respondent no. 3 in the said affidavit, the show cause notice dated 6.5.2015 stands quashed and set aside.

5. With regard to next grievance raised by the

petitioner with regard to the registration of an FIR in respect of the same alleged breaches, an affidavit has been filed by the Police Inspector, respondent no. 4 inter alia pointing out that the FIR registered is based on the said complaint and on the said show cause notice issued by the respondent. In view of the said statement made by the respondent no. 4, the show cause notice stands withdrawn and consequently the FIR registered based on the complaint lodged by the Town and Country Planning Department is not at all justified. Hence, the FIR bearing No. 130/2015 dated 27.5.2015 stands quashed and set aside subject to registration of fresh FIR in accordance with law. Needless to state that any action taken by the respondents will be in accordance with law.

6. Rule stands disposed of in the above terms.

7. Petition stands disposed of accordingly.

K. L. WADANE, J.
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F. M. REIS, J.