

IN THE HIGH COURT OF BOMBAY AT GOA

CONTEMPT PETITION NO. 38 OF 2014

IN

WRIT PETITION NO. 393 OF 2013

MR. JUSTINE FERNANDES THR. HIS
CONSTITUTED ATTORNEY SIMON
FERNANDES

... Petitioner

Versus

R. K. PANDITA MEMBER SECRETARY AND
3 ORS.,

... Respondents

Mr. J. Abreu Lobo, Advocate for the petitioner.
Mr. H. D. Naik, Advocate for respondent no.1.
Mr. Shivan Desai, Advocate for respondent no.2.
Mr. Joaquim Godinho, Advocate for respondent no.4.

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

Date:- 31st March, 2015

P.C.

Heard Mr. J. A. Lobo, learned counsel appearing for the petitioner, Mr. H. D. Naik, learned counsel appearing for respondent no.1, Mr. Shivan Desai, learned counsel appearing for respondent no.2 and Mr. J. Godinho, learned counsel appearing for respondent no.4.

2. The above petition filed by the petitioner inter-alia contending that there is a breach of undertaking given by the respondent no.4 to this Court that until the issues are decided by the competent authority, the respondent no.4 would maintain status quo of the

construction as of date. The learned counsel appearing for the petitioner has pointed out that the respondent no.4 was in the process of starting further construction activity which forced the petitioner to file an application before the statutory authority. The learned counsel has taken us through the photographs attached to the petition to point out that the respondent no.4 had started some construction activities. It is also pointed out that though the representation by the original owner has been rejected nevertheless, it appears that the respondent no.4 has filed a fresh representation which is also pending before the State Government. The learned counsel as such submits that the proceedings for contempt be initiated against the concerned respondent as well as to direct the authorities to decide the representation expeditiously.

3. On the other hand, Mr. Godinho, learned counsel appearing for the respondent no.4 has pointed out that the respondent no.4 has honoured the undertaking and in fact, according to him the undertaking to this Court is still stands and the respondent no.4 shall not carry out any construction activity unless the authorities resolve the issues. The learned counsel further pointed out that the respondent no.4 has not carried out any construction activity nor committed any breach of the undertaking. The learned counsel further submits that in fact the respondent no.4 has filed a representation which is pending consideration before the State Government. The learned counsel as such submits that the petition

deserves to be rejected.

4. We have examined the contention of the learned counsel and we have also gone through the records. On perusal of the photographs produced by Mr. Lobo, learned counsel appearing for the petitioner, we find that the construction shown therein is incomplete. In such circumstances, the photographs do not disclose that there is any major construction activity which would lead to gross breach of the undertaking by the petitioner. Apart from that, Mr. Godinho, learned counsel appearing for the respondent no.4 upon instructions of the respondent no.4 has pointed out that the respondent no.4 will honour the undertaking and shall not carry out any construction activity unless the authorities resolve the issue. In such circumstances, we find that no case is made out by the petitioner at this stage for initiating any Contempt proceedings against the respondents.

5. As far as the contention of Mr. Lobo, learned counsel appearing for the petitioner is concerned to direct the State Government to decide the representation expeditiously, we find that such direction cannot be issued in the above Contempt Petition.

6. Be that as it may, the petitioner if so advised can make a request to the State Government to decide the pending representation as expeditiously as possible.

7. Subject to the above, the Contempt Petition stands rejected.

K. L. WADANE, J.

F. M. REIS, J.

at*