

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.751 OF 2015**

1 Mr. Prakash K. Redkar,
Major in age, Business.
R/o. H.No.185, Bandekarwada,
Morjim, Pernem-Goa.

2 Mr. Ramchandra V. Redkar,
Major in age, Service.
R/o. H.No.185, Bandekarwada,
Morjim, Pernem-Goa.

3 Mr. Rukmini V. Redkar,
Major in age, house wife,
R/o. H.No.185, Bandekarwada,
Morjim, Pernem-Goa.

.... Petitioners

V/s

1 State of Goa,
Through Chief Secretary,
Having office at Secretariat,
Porvorim-Goa.

2 Deputy Town Planner,
Town and Country Planning
Department, Government of Goa,
Pernem-Goa.

3 Shree Hanuman Rashtroli Devasthan
Trust, Bandekar – Wada,
Morjim, Pernem-Goa.

4 Village Panchayat Morjim,
Through its Sarpanch/Secretary
having office at Morjim, Pernem-Goa.

.... Respondents

Mr. P.A. Kamat, Advocate for the Petitioners.

Mr. V. Rodrigues, Additional Government Advocate for Respondents No.1 & 2.

Mr. G. Agni, Advocate for Respondent No.3.

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

Date:- 16th December, 2015

ORAL JUDGMENT : (Per F.M. REIS, J.)

Heard Mr. P.A. Kamat, the learned Counsel appearing for the petitioners, Mr. V. Rodrigues, the learned Additional Government Advocate appearing for respondents no.1 & 2 and Mr. G. Agni, the learned Counsel appearing for respondent no.3.

2. Rule. Heard forthwith with the consent of the learned Counsel appearing for the respondents.

3. Upon hearing the learned Counsel appearing for the respective parties, the main grievance raised by the petitioners at this stage is that though a technical approval to the subject construction was issued to the petitioners way back in the year 2013 for the development/repairs of the existing residential houses located in the Survey No.65/10 of Morjim village, nevertheless, by an impugned order dated 7/04/2015, such technical approval was stated to have been refused. It transpires that

such refusal was based on the objection by the respondent no.3 to a portion of the property surveyed under no.65/10.

4. Mr. G. Agni, the learned Counsel appearing for the respondent no.3 states that there is a title dispute in respect of a portion of the property admeasuring 475 square metres, which has been identified as the suit pending before the learned Civil Judge, Junior Division, Quepem in Regular Civil Suit No.17/2011. It is also not disputed that the respondent no.3 has no claim in respect of the remaining portion of the property other than the subject matter of the dispute in the said suit admeasuring an area of 475 square metres as identified therein.

5. Mr. P.A. Kamat, the learned Counsel appearing for the petitioners states that the technical approval is beyond the disputed area of 475 square metres in the property surveyed under no.65/10 of Morjim village.

6. In such circumstances, we find that there is no reason for the respondents no.1 & 2 not to examine the technical approval sought by the petitioners in the remaining portion of property surveyed under no.65/10 beyond the disputed subject matter of the property admeasuring

475 square metres as referred to herein above.

7. As such, the impugned order dated 7/04/2015 is quashed and set aside and the respondent no.2 is accordingly directed to take a decision on the application for technical approval filed by the petitioners in the light of the observations made herein above and in accordance with law within one month from the date of the receipt of the order.

8. Rule is made absolute in the above terms with no order as to costs.

C. V. BHADANG, J.

F. M. REIS, J.

NH/-