

IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO. 682 OF 2014.

Nagaraj Rama Kale, Son of Late Shri
Rama Kale, Aged about 46 years,
Practicing Chartered Accountant,
Resident of Second Floor, SF 552, C-
Block, Rumadamol Housing Board,
Margao-Goa. Petitioner.

Versus

- 1 State of Goa,
Through Chief Secretary,
Government of Goa, Panaji Goa-
403001.
- 2 The Health Officer, Primary
Healthy Centre, Curtorim,
Salcette, Goa -403709
- 3 Dr. Rajendra Borkar, Health
Officer, Primary Health Centre,
Curtorim, Goa - 403709
- 4 Managing Director, Goa
Housing Board, Porvorim,
Bardez, Goa. 403521.
- 5 The Assistant Engineer,
PWD(PHE) Margao, Goa,
Margao Goa 403601. Respondents.

Mr. Arjun Naik and Ms. Sneha Shetye, Advocates for the
petitioner.

Ms. P. Kamat, Additional Government Advocate for the
respondent no. 1,2 and 5.

Mr. D. Lawande, Government Advocate for the respondent no.4.

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

Date:-29th April, 2015.

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

Heard Mr. Arjun Naik, learned Advocate for the petitioner, Ms. P. Kamat, learned Additional Government Advocate appearing for the respondent no. 1,2 and 5 and Mr. D. Lawande, learned Government Advocate appearing for the respondent no.4.

2. Rule. Heard forthwith with the concerned of the learned counsel.

3. Learned counsel waives notice on behalf of the respondents.

4. Upon hearing the learned Counsel, at the time of issuing notice in the above Writ Petition, by order dated 5.11.2014, we have recorded the statement of the learned Additional Government Advocate to the effect that the water connection of the petitioner would be restored on or before 6.11.2014. Accordingly, such water connection was in fact restored to the petitioner.

5. The main grievance of the respondent is that the water connection has been obtained to a synthetic water tank which has been unauthorisely installed by the petitioner herein. The

petitioner, no doubt dispute the said contention, but however submits that in fact such water connection was issued to the petitioner under the Public Health Act on 10.9.2014 which was purported to be revoked somewhere in November, 2014, which forced the petitioner to approach this Court.

6. Mr. Lawande, learned Government Advocate appearing for the respondent no.4 has pointed out that the petitioner has a water connection installed to the subject premises from the common water tank installed by the Housing Board, and as such, according to him, the petitioner is not entitled to put up any illegal water tank. But, however, Shri Naik, learned counsel appearing for the petitioner points out that in terms of the agreement between the Housing Board and the predecessor in title of the petitioner, the Housing Board has no say with the maintenance of the building nor supply of water connection.

7. Without going into the merit of the rival contentions, it is not disputed that the disputed water connection installed by the petitioner is under the Public Health Act. The provisions itself contemplates that such connection does not create or defeat the right of the parties if any to withdraw such water connection in accordance with law. The respondents as such are at liberty to avail of any remedy in law with regard to the water tank installed by the petitioner. This would not come in the way of

the petitioner using water connection granted to him under the Public health Act unless he is deprived of such liberty in accordance with law.

8. Reserving the right of the respondent to avail of such remedy, we find that the respondent nos. 2 and 5 were not justified to revoke the potable water connection to the flat of the petitioner. It is also not in dispute that such connection was taken after hearing the petitioner herein.

9. In view of the above, we find it appropriate to quash and set aside the order of revocation dated 24.09.2014. Water connection issued to the petitioner shall be treated to be under the Public Health Act. Needless to state that the respondents, if so advised, are at liberty to take measures in accordance with law with regard to their claim that the water connection has being used through an illegal water tank.

10. Rule is made absolute in the above terms.

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