

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 35/2015**

1. Mrs. Jayashri N. Rajebhosale
@ Bimabai Rauji Rane, major
r/o. Krashikesh, Plot No.114,
PDA Colony, Alto-Porvorim,
Bardez, Goa.

2. Bhupendrasinh N. Rajebhosale, major,
r/o. Krashikesh, Plot No.114,
PDA Colony, Alto-Porvorim,
Bardez, Goa.

..... Petitioners.

Versus

1. State of Goa,
through Chief Secretary,
with his office at Secretariat,
Porvorim, Bardez, North Goa.

2. Director of Panchayats,
with his Office at Junta House,
Panaji, North Goa.

3. Deputy Director of Panchayats,
with his Office at Junta House,
Panaji, North Goa.

4. Village Panchayat of Ona Maulinguem,
through its Sarpanch/Secretary,
with his office at Ona Maulinguem,
North, Bicholim, North Goa.

5. Audumber alias Audhut G. Mandrekar,
r/o. H.No.20/1, Khumbharwaddo,
Bordem, Bicholim, Goa.

..... Respondents.

Mr. S. D. Lotlikar, Senior Advocate with Ms. Gemini Xettigar, Advocate for the petitioners.

Mr. P. Faldessai, Additional Government Advocate for the respondents No.1 to 3.

Mr. Deepak Gaonkar, Advocate for the respondent No.4.

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

Date : - 19 NOVEMBER 2015.

ORAL JUDGMENT : (PER C.V. BHADANG, J.)

By this petition, the petitioners are seeking a direction to the respondents No. 3 and 4 to take necessary action against the construction carried out by the Fifth Respondent. The petitioners are, thus, seeking enforcement of an order dated 14th February, 2014, passed by the learned Deputy Director of Panchayats, North Goa, Panaji.

2. We have heard Mr. S. D. Lotlikar, learned Senior Counsel appearing for the petitioners, Mr. P. Faldessai, learned Additional Government Advocate appearing for the respondents No.1 to 3 and Mr. Deepak Gaonkar, learned Counsel appearing for the respondent No.4 -Village Panchayat.

3. It is contended on behalf of the respondent No.4-Village Panchayat that the exercise to locate the disputed structure is undertaken and the Panchayat is yet to verify this aspect. It is submitted by Mr. Lotlikar, learned Senior Counsel appearing for the petitioners that Survey No.99 of Village Maulinguem is, in fact, not sub-divided and, in any case, the Deputy Director of Panchayats/Respondent No.3 had passed the impugned order directing demolition after hearing the concerned parties, including the private respondent and, as such, the Panchayat cannot, at this stage, claim that the location of the disputed structure as to whether it is situated in Survey No.99/1 or 99/0 of Village Maulinguem, is yet to be verified.

4. On hearing the learned Counsel appearing for the parties and on perusal of the record, we find that the Deputy Director of Panchayats/Respondent No.3 has passed the impugned order dated 14/02/2014, after hearing the concerned parties, including the private respondent Audumber Mandrekar. Thus, it is not possible to accept at this stage that the exact location of the disputed structure is yet to be verified. In such circumstances, we find that the petition has to

succeed.

5. In the result, we pass the following :

O R D E R

- (I) The petition is allowed.
- (II) Respondent No.4/Village Panchayat of Ona Maulinguem, is directed to comply with the order dated 14/02/2014 with the assistance of the Block Development Officer, Bicholim.
- (III) The Block Development Officer, Bicholim shall depute a competent person to assist the respondent No.4 to locate the disputed structure.
- (IV) The exercise shall be carried out by the respondent No.4 after issuing notice to the petitioners, on or before 31st December, 2015. Respondent No.4 shall file a compliance report thereafter.
- (V) Rule is made absolute in the aforesaid terms, with no order as to costs.

C.V. BHADANG, J.

F.M. REIS, J.

ssm.