

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 790 OF 2015

Shri Dinesh D. Lokapure,
aged 55 years, Indian National,
Retired, r/o 30/13,
Empress Garden View Society,
Sopan Baug, Pune – 411 001.

... Petitioner

V/s

1. Goa Foundation, a Society registered under the Societies Act, 1860 through its Secretary, Dr. Claude Alvares and having its Registered Office at Room No. 7, Above Mapusa Clinic, Mapusa, Goa.
2. Shri Edwin Mascarenhas, major of age, businessman, residing Near Chicalim Park, Chicalim, Goa.
3. State of Goa, through its Chief Secretary, having office at Secretariat, Porvorim, Goa.
4. Mormugao Planning and Development Authority, through its Member Secretary, Commerce Centre, 2nd Floor, Vasco-Da-Gama, Goa.
5. Village Panchayat of Chicalim, through its Secretary, Chicalim, Goa.

6. National Green Tribunal,
Western Zone Bench,
through its Registrar,
Pune, Maharashtra. } Deleted as per Order
dated 18.11.2015 ... Respondents.

Mr. Deep D. Shirodkar, Advocate for the Petitioner.

Ms. Norma Alvares, Advocate for the Respondent No. 1.

Mr. P. Faldessai, Additional Government Advocate for the
Respondent No. 3.

Mr. M. Pereira, Advocate for the Respondent No. 4.

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

Date : 24th November, 2015.

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

Heard Mr. Shirodkar, learned Counsel appearing for
the petitioner, Ms. Alvares, learned Counsel appearing for the
respondent no. 1, Mr. Faldessai, learned Additional
Government Advocate appearing for the respondent no. 3 and
Mr. Pereira, learned Counsel appearing for the respondent no.
4.

2. Rule. Heard forthwith, with the consent of the learned Counsel for the parties. Ms. Alvares waives service for the respondent no. 1, Mr. Faldessai, waives service for the respondent no. 3 and Mr. Pereira, waives service for the respondent no. 4.

3. The main contention of Mr. Shirodkar, learned Counsel appearing for the petitioner is that the petitioner who is the respondent in the Application No. 26(THC)/2013(WZ), filed before the learned National Green Tribunal, Western Zone Bench, Pune, filed such application seeking for interim relief, which came to be disposed of by an order dated 31.10.2014, inter alia on the ground that the proceedings in the said application have been stayed by this Court by order dated 17.04.2015 and liberty has been given to the petitioner herein to move this Court for appropriate remedy. Mr. Shirodkar, learned Counsel has pointed out that there is no stay granted by this Court in Writ Petition No. 379/2014, as the subject report has been stayed in connection with the property belonging to the petitioner therein. The learned

Counsel further pointed out that there is no blanket stay of the subject report and as such, the observations by the learned Tribunal deserves to be quashed and set aside. The learned Counsel has pointed out that in similar circumstances, when the petition was pending before this Court, permissions were granted to occupy the premises subject to some terms. The learned Counsel pointed out that the learned Tribunal be accordingly directed to decide the application filed by the petitioner, on its own merits.

4. Ms. Alvares, learned Counsel for the respondent no.1 has pointed out that the original application before the Tribunal has been filed by the respondent no. 1 and stay if any, is in connection with the subject report, which has been stayed by this Court by order dated 25.06.2014. The learned Counsel however, points out that the learned Tribunal may examine the application filed by the petitioner on its own merits, in accordance with law.

5. We have considered the submissions of the learned Counsel and we have also gone through the record. The

order passed by this Court has not stayed the proceedings before the learned National Green Tribunal, insofar as the property claimed by the petitioner herein. The stay of the report has to be read in the contents of the subject property in Writ Petition No. 379/2014. Subject to this clarification, the petition stands disposed of. Needless to say that the learned Tribunal may proceed to decide the application No. 20/2015 after hearing the parties, in accordance with law.

6. The petition stands disposed of accordingly, with no order as to costs.

C.V. BHADANG, J.

F.M. REIS, J.

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