

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 724 OF 2014**

MR. WALBURG V. COUTHINHO ... PETITIONER
V/S

1] COMUNIDADE OF MARGAO,
AND OTHERS ... RESPONDENTS

Mr. S. M. Singbal, Advocate for the Petitioner.

Coram :- M. S. SANKLECHA, J.

Date :- 17th March, 2015.

Oral Order :

This petition under Article 227 of the Constitution of India, challenges the order dated 24th July, 2013 passed by the Civil Judge, Senior Division, Margao. By the impugned order dated 24th July, 2013 the petitioner's application for initiating penalty proceeding and prosecution against the Comunidade of Margao was rejected.

2. The basis of the petitioner's application was that the plans issued by the Comunidade of Margao, is a fabricated document. The impugned order rejects on the same ground that the application as filed, does not set out the particulars of commission of offences with specific reference to the provisions of law which has been breached. It was in the above view that the impugned order while rejecting the application specifically states that, "*Hence, it is difficult to consider the instant application and it is therefore rejected.*"

3. In the facts as existing before the learned trial Judge, the impugned order cannot be faulted. The impugned order does not preclude the petitioner from filing an appropriate application in the context of the law breached at the appropriate time before the learned trial Judge.

4. In the present case, the impugned order passed by the trial Judge cannot be said to be without jurisdiction and/ or in excess of jurisdiction, so as to invoke Article 227 of Constitution of India. Thus, there is no reason to entertain the petition. Accordingly, petition dismissed. No order as to costs.

M. S. SANKLECHA, J.

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