

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 800 OF 2014

SMT. SATYAWATI D MATKAR AND ANR.	... Petitioner
Versus	
STATE OF GOA THROUGH CHIEF SECRETARY AND 6 ORS.	... Respondent

Shri Ganesh R. Naik, Advocate for the petitioners.
Shri A. N. S. Nadkarni, Advocate General with Shri P. Dangui,
Additional Govt. Advocate for respondents No.1, 3, 4 and 5.
Shri J. A. Lobo, Advocate for respondent No.7.

Coram:- F. M. REIS &
K. L. WADANE, JJ.

Date:- 19th January, 2015

P.C.:

Heard Shri G. Naik, learned Counsel appearing for the petitioners, Shri A.N.S. Nadkarni, learned Advocate General appearing for respondents No.1,3, 4 and 5 and Shri J. Lobo, learned Counsel appearing for respondent No.7.

2. Though the contentions advanced by the learned Counsel appearing for the petitioners are to claim damages suffered to the property surveyed under Nos.185/0 and 188/0 of Village Ibrampur, Taluka Pernem, however, the learned Advocate General submits that there is title dispute in respect of such property raised by some other parties. Hence, such dispute cannot be examined in the present writ petition under Article 226 of the Constitution of India.

3. But, however, the learned Counsel appearing for the petitioners has raised a grievance that the activities carried out by the respondent No.7 are causing pollution in the vicinity despite of the representations/complaints made to the Goa State Pollution Control Board and no action was taken by the authorities with that regard. It is also pointed out that very close to such stone crusher installed by the respondent No.7, there is a primary school which, according to the petitioners, is hazardous to the students studying therein and, as such, the licence issued to the respondent No.7 is illegal.

4. Upon hearing the learned Counsel, as stated above, we find that substantial questions raised in the petition, on the basis of them, claim over the property for damages, or encroachment made therein cannot be examined by this Court in the present writ petition under Article 226 of the Constitution of India. The petitioners, if so advised, can approach a competent Court with that regard which shall be decided on its own merits, in accordance with law.

5. Be that as it may, with regard to the contention of the petitioners that the activities of the respondent No.7 are causing pollution at the site and close to a primary school, we deem it appropriate to permit the petitioners to make a representation before the respondent No.2 in respect of their grievances, including their claim that no consent should be granted to the respondent No.7.

Such a representation shall be made within a period of two weeks from today. In case the petitioners make such a representation, the respondent No.2 shall consider it on its own merits, after hearing the concerned parties, in accordance with law.

6. Subject to such directions, the petition stands disposed of. All contentions of the parties, on merits, are left open.

K. L. WADANE, J.

F. M. REIS, J.

ssm.