

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 1027 OF 2015

M/S.HIBUSCUS HOLIDAY HOMES (GOA)
PVT. LTD. REP. BY ATTORNEY
MR.MARIO A GAUDANCIO AND 2 ORS.,

... Petitioners

Versus

THE STATE OF GOA, THROUGH ITS
CHIEF SECRETARY AND 6 ORS.,

... Respondents

Mr. A. F. Diniz and Shri Ryan Da Piedade Menezes, Advocates for the petitioners.

Mr. S. S. Rebello, Additional Government Advocate for the respondents.

Mr. Saish Mahambrey, Advocate for Mr. Minguel Francisco Gomes.

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

Date:- 22nd December, 2015

P.C.

Heard Shri A. F. Diniz, the learned Counsel appearing for the petitioners, Shri Rebello, the learned Additional Government Advocate appearing for the respondents and Shri Mahambrey, the learned Counsel appearing Shri Minguel Francisco Gomes.

2. Shri A. F. Diniz, the learned Counsel appearing for the petitioners, during the course of hearing of the above petition has brought to our notice an order passed by this Court while disposing of W.P.No.733/2015, 734/2015, 735/2015, inter alia, observing that the concerned authorities shall proceed to examine an application in terms of Section 94(A) of the Public Health Act, in case such an application is filed by the petitioners.

3. The learned Additional Government Advocate appearing for the

respondents points out that the electricity connections have been released to the petitioners, nevertheless as far as the water connection is concerned, the petitioners have not filled up the form to obtain such connection. But however, Shri Diniz, the learned Counsel appearing for the petitioners submits that such an application has already been filed and in any event, the petitioners shall file the requisite form along with requisite documents and shall pay requisite fees.

4. Shri Vijay Kudchadkar, Assistant Engineer, Sub-Division II/W.D. IX, Monte-Margao, who is present in the Court, states that in case the petitioners furnish all such documents and deposit the requisite fees during the course of day, the respondent no.5 shall take steps to ensure that the water connection is released to the petitioners within 48 hours.

5. Accepting the said statement of the said Assistant Engineer, we find that nothing further survives in the above petition. But however, Shri Mahambrey, the learned Counsel appearing for Shri Minguel Francisco Gomes states that he is the rightful owner of the premises and according to him, the owner has to be necessary party in the above petition. However, Mr. Diniz, the learned Counsel for the petitioners disputes the said aspect.

6. The provisions of Section 94(A) of the Public Health Act clearly contemplates that merely allowing such water connection or other utility specified therein, would not in any way create or defeat the rights of any other party. Hence, we find that the rights of such

owner, if any, would not, in any way, be affected in case the water connection is released, in terms of Section 94(A) of the Public Health Act.

7. Shri Mahambrey, the learned Counsel further points out that the petitioners are using the premises for business purpose. The provisions of Section 94(A) clearly provide that such water connection can be granted for domestic and residential purposes only and not for commercial or business purpose. In case of breach of such conditions, the concerned authorities are at liberty to take necessary action in accordance with law.

8. With these observations, the petition stands disposed of.

Parties to act on the authenticated copy of the order.

C. V. BHADANG, J.

F. M. REIS, J.

SMA