

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 376 OF 2016

MS. SHEFALI MARTINS, REP BY HER
DULY CONSTITUTED ATTORNEY MRS,
SVETA FACHO.

... Petitioner

Versus

STATE OF GOA, THR. THE CHIEF
SECRETARY AND 5 ORS.,

... Respondents

Mr. R. G. Ramani, Advocate for the petitioners.

Mr. V. Lawande, Government Advocate for the respondent nos.1 to 3.

Coram:- F. M. REIS &
NUTAN D. SARDESSAI, JJ.

Date:- 5th April, 2016

P.C.

Heard Mr. R. G. Ramani, learned Counsel appearing for the petitioners and Mr. V. Lawande, learned Government Advocate appearing for the respondent nos.1 to 3.

2. We have heard the learned Counsels.

3. The main grievance of the petitioner in this petition is that though the petitioner is the owner in possession of the property surveyed under no. 158/6 situated at Salvador Do Mundo village, the private respondents have started the development in the properties belonging to them in survey nos. 158/4 and 158/5 and thereby have encroached into the property belonging to the petitioner under survey no. 158/6.

4. Shri Lawande, learned Government Advocate points out that the

petitioner had also filed Regular Civil Suit No. 101/2015 before the learned Civil Judge, Junior Division, Mapusa wherein the temporary injunction sought by the petitioner came to be disposed of by order dated 7.5.2015 whereby a statement came to be recorded on behalf of the private respondents that they would not carry out any development activities in the property belonging to the petitioner surveyed under no. 158/5 inter alia based on the mutual understanding.

5. Considering that the Civil Court is examining the matter on the basis of the same allegations made herein, we find that exercise of the jurisdiction under Article 226 of the Constitution of India at this stage would not at all be justified. But, however, on perusal of the plan which has been sanctioned by the Statutory Authority, it is not in dispute that the development which has been permitted to the private respondents is in the property surveyed under survey nos. 158/4 and 158/5 belonging to the private respondents. There is no reference that any development has been permitted in the property surveyed under no. 158/6 belonging to the petitioner.

6. In such circumstances, the question of raising any grievance with regard to the subject development of the properties at this stage by the petitioner would not at all be justified. But, however, Mr. Ramani has pointed out that the private respondents have deviated from the sanction plan. Mr. Lawande, learned Government Advocate points out that in case of any grievance on that ground, the authority will examine such alleged deviation in accordance with law.

7. In view of the above, accepting the said statement of the learned Government Advocate referred to above, we find that there is no case made out for interference in the subject development in exercise of extra ordinary jurisdiction under Article 226 of the Constitution of India.

8. Subject to the above, petition stands disposed of.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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