

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO. 8 OF 2016

MR. PRAXEDES FERNANDES AND 2 ORS., ... Petitioners
Versus
M/S. SALDANHA DEVELOPERS PVT. LTD.
AND 4 ORS., ... Respondents

Shri Nigel Da Costa Frias, Advocate for the petitioners.
Shri J.E.Coelho Pereira, Senior Advocate with Shri V. Braganza,
Advocate for the respondent no.1.
Shri G. Teles, Advocate for the respondent no.2.
Shri P. Dangui, Additional Government Advocate for the respondents
no.3,4 and 5.

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

Date:- 23rd August, 2016

P.C.

1. Heard Shri Nigel Da Costa Frias, learned counsel appearing for the petitioners, Shri J.E.Coelho Pereira, learned Senior Counsel with Shri V. Braganza, learned counsel appearing for the respondent no.1, Shri G. Teles, learned counsel for the respondent no.2 and Shri P.Dangui, learned Additional Government Advocate appearing for the respondents no.3,4 and 5.

2. The above Public Interest Litigation filed by the petitioners takes exception to a Project initiated by the private respondent no.1 in a property surveyed under nos.104/1, 104/3 and 107/2 of Utorda village. Shri Nigel Costa Frias, learned counsel appearing for the

petitioners has pointed out that the technical approval for the construction granted by the Planning Authorities is contrary to the statutory Regulations, as according to him, considering that the Project is a group housing unit, minimum width of the access road has to be six meters. It is further submitted that though the technical approval granted by the Authorities disclosed that a six meter wide road is available towards the northern and western side, but however, according to him, no such road is found at the site. The learned counsel further points out that as the minimum requirement of access road is not available at the site, the technical approval itself stands vitiated and it deserves to be quashed and set aside. On the other hand, the learned Senior Counsel appearing for the respondent no.1 has submitted that the road as mentioned in the technical approval dated 16.11.2011 is, in fact, available at the site and that even the State Government has acquired a portion of the property belonging to the predecessor-in-title of the respondent no.1 towards the northern side to construct a new PWD road. The learned Senior Counsel further points out that the subject project is surfaced by two roads one located to the northern side and another to the western side and as such the contention of the learned counsel appearing for the petitioners has no basis. The learned Additional Government Advocate appearing for the Authorities has pointed out that the new PWD road located on the northern side of the subject project clearly shows that six meter wide road is available to the project of the respondent no.1. The learned counsel further submits that the access

road as depicted in the technical approval is found at the site and consequently the contention of the petitioners has no substance. The learned counsel appearing for the Panchayat has also pointed out that the Panchayat has admittedly granted permission to the respondent no.1 subject to the conditions stipulated therein.

3. We have considered the submissions of the learned counsel appearing for the parties and with their assistance we have gone through the Plan. On perusal of the approved plan and technical approval granted by the Planning Authority, there are two roads shown one designated as road eight meter wide and other shown designated as existing road on two sides of the subject property where the development is being carried out by the respondent no.1. The respondent no.1 has also produced a plan which is at page no.176 and on perusal thereof the said two roads shown on the approved plans are, in fact, depicted towards the northern and western side of the subject development. The northern side road is designated as the new PWD road. The Town Planning Authority along with their affidavit have also produced an acquisition plan in respect of the subject PWD road at Annexure-A. Looking into the roads as shown in the said three plans, we find the grievance of the petitioners that the subject project is not surfaced by a six meter wide road as required under the Regulation is not at all justified. The learned Senior Counsel appearing for the respondent no.1 has assured that all the conditions imposed in the technical approval as well as

that the access road shown therein would be available for the subject project.

4. In view of the above, we find that the grievances of the petitioners does not subsist and the petition stands accordingly disposed off.

5. At this stage, Shri Nigel Costa Frias, the learned counsel appearing for the petitioners, points out that at the time of issuing notice, the petitioners were directed to furnish security for a sum of Rs. 50,000/-. As the petition has not been admitted nor any interim relief granted and has been disposed off at the first hearing, the security furnished in a sum of Rs. 50,000/- by the petitioners stands accordingly discharged.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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