IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 613 OF 2016

SHRI. ARJUN HARMALKAR. ... Petitioner

Versus

VILLAGE PANCHAYAT OF THIVIM, REP. HEREIN BY THEIR SARPANCH/SECRETARY. ... Respondent

Mr. Ajit R. Kantak, Advocate for the petitioner.
Mr. A. Lobo, Advocate for the respondent.

Coram:- C. V. BHADANG, J.

Date:- 28th July, 2016

P.C.

The petition challenges the order directing demolition passed by the Village Panchayat, which has been confirmed by the Additional Director as also the learned District Judge in Civil Revision Application No.25/2014 vide judgment and order dated 30/03/2015.

2. The main contention on behalf of the petitioner is that the learned Additional Director had heard the parties only on the point of the vacation of the order of status-quo and on application seeking action for contempt against the Village Panchayat, for breach of the order of status-quo. The learned Counsel for the petitioner contends that the written submissions were filed by the parties only on this limited aspect and not on merits, however, the learned Additional Director has decided the appeal on merits. It is next contended that the shop in question, is in existence from the year 1999 and in respect of which the Village Panchayat has collected commercial tax and had

granted no objection for conducting grocery business. It is submitted that the complaint on the basis of which the Village Panchayat has acted, is motivated. It is pointed out that the complainant is the brother of the petitioner and on account of some dispute with their father, the complaint has been lodged.

3. The learned Counsel for the respondent has pointed out that written submissions were filed on merits. The learned Counsel has produced copies of the written submissions dated 04/07/2013 filed by the petitioner and dated 05/12/2013 filed by the respondent Village Panchayat, which are taken on record and marked 'X' for identification. He, therefore, submits that it cannot be accepted that the learned Additional Director has decided the matter only on the basis of the submissions on the point of vacation of the order of status-quo and contempt. Even so far as the merits are concerned, it is contended that mere collection of tax is not a substitute for licence.

4. I have carefully considered the rival circumstances and the submissions made and I do not find that any case for interference in the concurrent findings recorded by the Courts below is made out.

5. At the outset, it is necessary to mention that it is not the case of the petitioner that he or his father had obtained a licence for construction of the shop premises. Till today, the petitioner has neither claimed nor produced any such licence on record. The contention that the Village Panchayat had collected commercial tax and had granted no objection certificate for conducting the grocery

business in the shop premises, would not be decisive in as much as the collection of tax, which is essentially for the fiscal purpose, is not a substitute for an appropriate licence for constructing the shop premises. Even so far as the contention that the learned Additional Director had not heard the matter on merits, the same cannot be accepted as the copies of the written submissions produced clearly show that the parties had filed written submissions even on merits of the appeal. The contention raised on behalf of the petitioner that there were no written submissions on merits itself runs counter to the record. The Authorities below have rightly found that the suit structure is not an existing structure and it was a new construction effected without proper licence. I do not find that any case for interference is made out.

6. The petition is without any merit and is hereby dismissed, with no order as to costs.

C. V. BHADANG, J.

SMA