

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 492 OF 2015

SHRI RAUL DA COSTA.

... Petitioner

Versus

STATE OF GOA, THROUGH ITS CHIEF
SECRETARY AND 3 ORS.,

... Respondents

Mr. Rohit Bras De Sa, Advocate for the petitioner.

Mr. A. N. S. Nadkarni, Advocate General with Mr. P. Faldesai,
Additional Govt. Advocate for the respondents No.1 to 3.

Mr. Deep Shirodkar, Advocate for the respondent No.4 under Legal
Aid Scheme.

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

Date:- 18th April, 2016

P.C.:

Heard Mr. Rohit Bras de Sa, learned Counsel appearing for the petitioner, Mr. A. N. S. Nadkarni, learned Advocate General appearing for the respondents No.1 to 3 and Mr. Deep Shirodkar, learned Counsel appearing for the respondent No.4.

2. This petition takes exception to the alleged nuisance caused by the private respondent No.4 in carrying out an illegal activity of running a piggery in the property belonging to the petitioner.

3. On the last occasion, we had directed the concerned Authority to file a report on examining the situation at loco in connection with the subject nuisance. Accordingly, the Medical

Officer of the respondent No.2 has submitted a report dated 3rd March, 2016, inter alia, in fact, confirming the act of nuisance at the site of stagnation of water from the kitchen and the toilet and the presence of pigs. Accordingly, directions were issued by the Medical Officer on 3rd March, 2016 to the respondent No.4, as well as to one Pedro Caitano Piries, in exercise of powers conferred under Section 37(1) and (2) of the Goa Public Health Act, 1985. The said Pedro Caitano Piries is stated to be the son of the respondent No.4.

4. Mr. Rohit Bras de Sa, learned Counsel appearing for the petitioner submits that in view of the report submitted by the Medical Officer, which obviously discloses that nuisance is caused in the adjoining property of the petitioner, the Authorities are bound to undo the nuisance in terms of the directions issued in the Notice dated 03/03/2016. The learned Counsel, as such, submits that directions be issued to forthwith undo the nuisance at the site.

5. On the other hand, Mr. Deep Shirodkar, learned Counsel appearing for the private respondent No.4, submits that the respondent No.4 intends to prefer an appeal against the said order passed against the respondent No.4 in terms of Section 40 of the Goa Public Health Act, 1985. The learned Counsel further submits that the respondent No.4 is 73 years old and, as such, on account of her old age, she was unable to prefer an appeal immediately. The learned Counsel further points out that according to the report the nuisance, if

any, is not caused by the respondent No.4, but by her son Pedro Caitano Piries, who is not a party to the above petition.

6. The learned Advocate General submits that directions have already been issued and further steps to ensure the compliance of such directions would be taken by the Medical Officer, in accordance with law.

7. We have considered the submissions of the learned Counsel and we have also gone through the record. On perusal of the records and the relevant documents, the fact remains that directions issued by the Medical Officer vide Communication dated 03/03/2016 under Section 37(1) and (2) of the Goa Public Health Act, 1985 are still in operation. Such directions have been issued to the respondent No.4, as well as to the said Pedro Caitano Piries. Consequently, it is the duty of the Statutory Authority to ensure that the directions issued by the Medical Officer are duly complied with, in accordance with law. Needless to say, any such action by the Medical Officer shall be subject to any appeal, if at all filed by the respondent No.4 or said Pedro Caitano Piries, in accordance with law.

8. Be that as it may, it is not open to the Authority to delay in taking action to comply with such directions which are in operation. Consequently, the Medical Officer is directed to comply with the directions issued in terms of the said communication dated

03/03/2016 to the respondent No.4, as well as to said Pedro Caitano Piries, in accordance with law. Needless to say, all contentions of the said private parties are left open to be examined in appropriate proceedings if at all filed, in accordance with law.

9. The petition stands disposed of accordingly. Place the compliance report on 13/06/2016.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

ssm.