

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO. 21 OF 2016

MR. TRAJANO D'MELLO AND ANR.,

... Petitioners

Versus

STATE OF GOA, THR. THE CHIEF
SECRETARY AND 16 ORS.,

... Respondents

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

Ms. Amira Razaq, Government Advocate for the Respondent no. 1.

Mr. Y. V. Nadkarni and Ms. D. Shirgam, Advocates for the
Respondent no.2.

Mr. C. Padgaonkar, Advocate for the Respondent no. 4.

Mr. D. Pangam, Advocate for the Respondent no. 5.

Mr. S. S. Kantak, Senior Advocate with Mr.A. Kamat, Advocate for
the Respondent no. 7.

Mr. Shivan Desai, Advocate for the Respondent nos. 6 and 13.

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

Date:- 25th October, 2016

P.C.

Heard Shri Rohit Bras De Sa, learned Counsel appearing for the
Petitioners, Ms. Amira Razaq, learned Government Advocate
appearing for the Respondent no. 1, Mr. Nadkarni, learned Counsel
appearing for the Respondent no.2, Mr. Padgaonkar, learned Counsel
appearing for the Respondent no. 4, Mr. D. Pangam, learned Counsel
appearing for the Respondent no. 5, Mr. S. S. Kantak, learned Senior
Advocate appearing for the Respondent no. 7 and Mr. Shivan Desai,
learned Counsel appearing for the Respondent nos. 6 and 13.

2. The above Petition raises a grievance that the directions issued by

this Court in PILWP nos. 15 and 16 of 2014 by Judgment dated 06.05.2016 are not being complied with. Though there were different contentions raised by the Petitioner in the above Writ Petition, we have examined the above Petition only in the context to consider whether the directions issued by this Court have been complied with in its true intense and meaning.

3. Ms. Amira Razaq, learned Government Advocate appearing for the Respondent no. 1, has filed a report of the Collector, inter alia, contending that pursuant to the directions issued by this Court, necessary Orders have been issued inter alia to prevent the occupation of the subject premises by the private Respondents. It is further pointed out that though directions have been issued to seal and take other measures to prevent the occupation of the private Respondents, the Respondent no. 1 accepted the undertakings from most of the private Respondents i.e. Respondent nos. 4, 5, 8, 9, 10, 11 and 12 to the effect that they have stopped occupying their respective subject premises.

4. Mr. D' Sa, learned Counsel appearing for the Petitioners, however points out that the undertakings itself would not meet the requirements as, according to him, there are specific directions to seal the premises until necessary measures are taken with regard to the alleged occupation by the private Respondents in accordance with law.

5. Mr. Nadkarni, learned Counsel appearing for the Comunidade-Respondent no.2, submits that the undertakings given to the Respondent no. 1 are not executable in law.

6. Mr. S. S. Kantak, learned Senior Advocate appearing for the Respondent no.7-private Respondent, pointed out that the said Respondents do not occupy the subject premises and, as such have in fact furnished undertakings to the Respondent no. 1 with that regard. Learned Senior Advocate has also pointed out that the Petition itself is an abuse of the process of the Court.

7. Mr. Pangam, learned Counsel appearing for the Respondent no. 5, has also pointed out that the said Respondents have voluntarily stopped occupying the subject premises and, as such, issuing any further directions with regard to the compliance of the Judgment passed by this Court is not at all necessary.

8. Upon hearing the learned Counsel, we are not inclined to either modify or add to the directions which have already been issued in the said Judgment dated 06.05.2016. It is for the Respondent no. 1 to take all measures to ensure that the private Respondents do not occupy in any manner the subject premises in the property in question. In case of any infraction or breach of such directions, necessary coercive measures will have to be taken by the concerned

Respondents to ensure that such private Respondents do not occupy such premises in the context of the directions issued in the said Judgment.

9. Shri S. S.Kantak, learned Senior Advocate appearing for the Respondent no.7 and the other Counsel appearing for the private Respondents, have also pointed out that they would hand over the keys of all the shutters of the subject premises which were earlier occupied by them to the Respondent no. 1.

10. It is for the Respondent no. 1 to take all measures and ensure that our directions in the said Judgment are strictly complied with in accordance with law. The learned Government Advocate states that compliance report in terms of the directions issued in the said Judgment would be filed within two weeks. In case of any infraction, this Court will take a serious view in that context.

11. With the aforesaid directions, the Petition stands disposed of.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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