

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 74 OF 2015

Shri Rohan Satish Timblo
s/o late Satish Timblo,
aged about 33 years,
businessman, r/o Betalbatim,
Salcete, Goa,
represented herein by his Constituted
Attorney
Mr. Denis Fernandes,
son of late Victor M. F. Fernandes,
aged about 48 years, resident
of House no.148, Fondvem,
Raibandar, Ilhas, Goa.

..... Petitioner

V e r s u s

1. Village Panchayat of Siriado-Palem,
Siridao, Ilhas-Goa.
2. Town Planner,
Town and Country Planning Department
Tiswadi Taluka Office,
Panaji-Goa.

..... Respondents.

Mr. C. A. Coutinho, Advocate for the Petitioner.

Mr. G. Agni, Advocate for Respondent no.1.

Ms. P. Kamat, Additional Government Advocate for Respondent no.2.

CORAM: S. B. SHUKRE, J.
DATE: 15TH JANAURY, 2016.

ORAL JUDGMENT:

Heard. Rule. Rule made returnable forthwith.

2. Heard finally by consent.

3. By this petition, the legality and correctness of the order dated 13/8/2014 passed by the District Judge-I, Mapusa, in Civil Revision Application No.14/2013 is challenged.

4. By the impugned order, the learned District Judge has quashed and set aside the order dated 20/8/2010 passed by the Additional Director of Panchayat -II, Panaji-Goa, whereby the learned Additional Director of Panchayats ordered the Village Panchayat, that is, respondent no.1 to forward the application dated 10/2/2009 submitted by the petitioner for appropriate consideration and submission of report.

5. I have heard the learned counsel for the petitioner and the learned counsel for respondent nos. 1 and 2.

6. Learned counsel for respondent no.1 has strongly opposed this petition contending that the impugned order has been passed by considering the illegal extension made by the petitioner while constructing his bungalow

and therefore, there is no need for any interference with the impugned judgment and order.

7. Learned counsel for respondent no.2 submits that the dispute is really between the petitioner and respondent no.1 and respondent no.2 would abide by the order of this Court.

8. On perusal of the impugned judgment and order, I find that there is substance in the argument of the learned counsel for the petitioner that the learned District Judge has misdirected himself when he said that Regulations of 2010 and not the Regulations of 1971 were applicable to the applications filed by the petitioner. There were two applications, one for renewal of construction licence dated 10/2/2009 and the other for grant of approval to the revised plan submitted by the petitioner dated 22/2/2010. There is no dispute about the fact that in the new regulations, titled The Goa (Regulations of Land Development and Building Construction) Act, 2008 and The Goa Land Development and Building Construction Regulations, 2010, came into force on 8/11/2010. Section 9 of the Goa Land Development Regulations of the Act of 2008 makes it clear that all the applications for land development permission or construction licence submitted before the date of commencement of regulations framed under section 7, in the present case the Regulations of 2010, shall be considered as per the law applicable before the

2008 Act came into force. Before 2008 Act, Regulations of 1971 were in force. So, in accordance with the provisions of Section 9, the applications of the petitioner ought to have been considered as per the earlier Regulations, that is, the Regulations of 1971. Therefore, the learned District Judge appears to have committed a serious illegality when he observed that the judgment and order dated 20/8/2010 passed by the learned Additional Director was not in accordance with the procedure contained in the new Regulations of 2010.

9. It is also seen from the impugned judgment and order that the learned District Judge was in agreement with the petitioner on the point of violation of the procedure by the respondent no.1 in dealing with the application of the petitioner for renewal of construction licence. But, at the same time, the learned District Judge misconceived the facts of the case and law applicable and the result is of an order passed in breach of the settled principles of law. Such an order cannot be sustained and must be quashed and set aside.

10. Respondent no.1 is directed to send the application dated 10/2/2009 together with application for approval of revised plan dated 22/2/2010 to the Town and Country Planning Department for due consideration and submission of report to the Village and thereafter Respondent no.1/Village Panchayat shall take its decision in accordance with law. The applications

shall be forwarded within 15 days from the date of the order and final decision shall be taken by respondent no.1 as early as possible, preferably within 15 days from the receipt of the report.

11. Respondent no.2 shall submit its report within one month from the date of receipt of the applications.

12. In the circumstances, the writ petition is allowed. Rule is made absolute in these terms. No costs.

S. B. SHUKRE, J.

Ap/-