

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 123 OF 2015

1. Shri Rajaram Vishnu Gawas,
son of Vishnu Gawas,
Age 50, resident of H.No.194,
Tambalwada, Ibrampur,
Pernem Goa.
2. Shri Sitaram Rama Gawas,
son of late Rama Gawas,
major of age, resident of
Tambalwada, Ibrampur,
Pernem Goa.
3. Shri Datta Bhikaji Gawas,
son of late Bhikaji Gawas,
age 42, resident of Chawathawada,
Ibrampur, Pernem Goa.
4. Shri Gopal Krishna Gawas,
son of late Krishna Gawas,
age 50, resident of Deulwada,
Ibrampur, Pernem Goa.
5. Shri Mahadev Vasudev Gawas,
age 36, son of late Vasudev Gawas,
resident of Deulwada,
Ibrampur, Pernem Goa.
6. Shri Maheshwar Apa Gawas,
H.No.42, age 39, Gawaswada,
Ibrampur, Pernem Goa.
7. Shri Mase Vishnu Gawas,
age 55, son of Vishnu Gawas,
Chawathawada, Ibrampur,
Pernem Goa.
8. Shri Rama Laxman Gawas,
son of Late Laxman Gawas,
age 35, Deulwada, Ibrampur,
Pernem Goa.
9. Shri Krishna Vishnu Gawas,
son of Vishnu Gawas,
age 43, resident of Cawathawada,

Ibrampur, Pernem Goa.

..... Petitioners

V e r s u s

1. State of Goa,
Through Chief Secretary,
Secretariat, Porvorim Goa.
2. The Mamlatdar of Pernem,
As the Administrator of
Mahajan Temples of Pernem Taluka,
Pernem Goa.
3. The Collector,
North Goa District,
Office of the Collector,
Panaji Goa.
4. Shri Devi Santer or
Sateri Devasthan of Ibrampur,
Ibrampur, Pernem Goa.
By its Attorney
Shri Chandrakant Pandurang Gawas,
Resident of Gawaswada,
Ibrampur, Pernem Goa.
5. Shri Rajaram Madhu Gawas,
President of the Managing Committee
of Shri Devi Sateri Devasthan of Ibrampur,
aged about 60 years,
son of late Madhu Gawas,
resident of Gawaswada,
Ibrampur, Pernem Goa.
6. Shri Sushant Jairam Gawas,
Secretary of Shri Devi Sateri Devasthan
of Ibrampur,
son of late Jairam Gawas,
age about 30 years, resident of
Gawaswada, Ibrampur,
Pernem Goa.
7. Shri Ashok Arjun Gawas,
Treasurer, of Shri Devi Sateri Devasthan
of Ibrampur,
aged about 35 years,
son of late Arjun Gawas,
resident of Gawaswada,
Ibrampur, Pernem Goa.

8. Shri Chandrakant Pandurang Gawas,
attorney of Shri Devi Sateri Devasthan
of Ibrampur, aged 42 years,
son of late Pandurang Gawas,
resident of Gawaswada,
Ibrampur, Pernem Goa.

9. Under Secretary,
Revenue (II),
Revenue Department Secretariat,
Porvorim Goa.

..... Respondents

Mr. J. J. Mulgaonkar, Advocate for the Petitioner.

Mr. P. Faldessai, Addl. Government Advocate for the Respondent nos. 1 to 3 and 9.

Mr. A. Kansar, Advocate for the Respondent nos. 4 to 8.

Coram :- **F. M. REIS,**
 K. L. WADANE, JJ.

Date : **15th March, 2016**

ORAL JUDGMENT (Per F. M. REIS, J.)

Heard Shri J. J. Mulgaonkar, learned Counsel appearing for the Petitioners, Mr. P. Faldessai, learned Addl. Government Advocate appearing for the Respondent nos. 1 to 3 and 9 and Mr. Kansar, learned Counsel appearing for the Respondent nos. 4 to 8.

2. The above Petition, inter alia, seeks to quash and set aside the Order dated 11.11.2014 of the Respondent no. 2 as well as the decision of the Under Secretary (Revenue) i.e. Respondent no. 9 in the letter dated 03.11.2014 and also the Order dated 27.03.2015 passed by the Respondent no. 2.

3. Briefly, the facts of the case are that handbills were issued somewhere in the year 2013 in the name of Shri Devi Sateri Jirnodar Samiti in the Village of Ibrampur. It is further the case of the Petitioner that in September, 2013, the Petitioners were shocked to learn that the Respondent nos. 4 to 8 were planning to demolish the existing temple. Being dissatisfied with the action of the Managing Committee to bring down the ancient temple which was the object of devotion for several generations, without the consent of the General Body, the Petitioners brought to the notice of the Respondent no. 2 the illegal and unauthorised move of the Respondent nos. 4 to 8 to demolish the temple. Thereafter, the Respondent no. 2 issued a notice to the Managing Committee but failed to follow up with any promptness. Thereafter, by their letter dated 30.12.2014, the Petitioners brought to the attention of the Respondent no. 2, the Administrator, that the Respondent nos. 4 to 8 had in violation and in total disregard to Order dated 27.12.2013 passed by the Respondent no. 2 have conducted a programme of laying the foundation stone. The Petitioners by letter dated 06.02.2014, apprised the Respondent no. 2 about the intention of the Respondent nos. 4 to 8 to demolish the temple on 08.02.2014. Even after demolition of the temple, the Petitioners brought to the notice of the Respondent no. 2, the Administrator, by letter dated 10.02.2014, the manner in which the demolition of the temple was being carried out of the said Respondents. Thereafter, Writ Petition no. 126 of 2014 was filed before this Court to act upon the complaint lodged with the Respondents by the Petitioners. A show cause notice was issued by the Respondent no.2 to the Respondent nos.4 to 8 on 20.02.2014 as to why action should not be taken against them for violation of the regulations. A reply was sent

by the Respondent nos. 4 to 8 opposing the said Petition. The Writ Petition was thereafter disposed of on 16.06.2014 on the statement by the Respondent no. 2 that the proceedings initiated would be concluded within two months. The Respondent no. 2 concluded the inquiry on 14.08.2014 and prepared a report, inter alia, holding that the Respondent nos. 4 to 8 had acted in violation of Article 143 to 148 of the Devasthan Regulation and they had violated the law. Thereafter, the Respondent no. 9 wrote a letter to the Respondent no. 2 to only pass an Order that henceforth the Respondent nos. 4 to 8 will follow the Devasthan Regulations and accordingly directed the Respondent nos. 4 to 8 to strictly follow the Devasthan Regulations. In the meanwhile, during the pendency of the Petition, there was further development whereby the permissions were sought from the Respondent no. 2 for post facto approval of the renovation of the temple which came to be allowed by the impugned order which was sought to be quashed by the Petitioners after amending the Petition.

4. Shri Mulgaonkar, learned Counsel appearing for the Petitioners, has pointed out that once the Respondent no. 2 had come to the conclusion that the provisions of the Devasthan Regulations have been violated by the Respondent nos. 4 to 8 granting a lenient punishment to the Respondent nos. 4 to 8 is not at all justified when a more deterrent punishment ought to have been impugned. Learned Counsel has thereafter taken me through the findings of the Respondent no. 2 to the show cause notice and pointed out that it is clearly held therein that the said Respondents had violated the provisions of the Devasthan Regulations. The learned Counsel further pointed out that subsequent Order passed by the Respondent no. 2 directing the Respondent nos. 4 to 8 to strictly follow the

Devasthan Regulations was passed without giving a hearing to the Petitioners and, as such, stands vitiated. Learned Counsel further submits that thereafter the Respondent nos. 4 to 8 sought post facto permission for the renovation of the temple who was erroneously granted by the Administrator of Devasthan by Order dated 27.03.2015. The learned Counsel as such pointed out that the impugned Orders be quashed and set aside.

5. On the other hand, Mr. Kansar, learned Counsel appearing for the Respondent nos. 4 to 8 pointed out that there were no allegations of misappropriation of funds by the said Respondents. Learned Counsel further submits that whatever activities were carried out in the presence of all the Petitioners and for the benefit of the devotees at large and as such the Petitioners cannot seek for any relief in the above Petition. Learned Counsel further pointed out that, in any event, by the said Order dated 27.03.2015, the Administrator has granted permission to the Petitioners and, as such, all the activities carried out by the Petitioners stands regularised. Learned Counsel further pointed out that the Petition be rejected.

6. We have carefully considered the submissions of the learned Counsel. We have also gone through the records. It is not disputed that when the inquiry was held the Petitioners were duly given a hearing. The grievance of the Petitioners that no hearing was given to them wherein the decisions directing the Respondent nos. 4 to 8 to henceforth follow the Devasthan Regulations, is not at all tenable in the peculiar facts and circumstances of the case. It is an admitted position that by the subsequent Order dated 27.03.2015, the work of renovation of

the temple has been authorised or permitted by the Administrator of Devasthan. Whilst granting such permission, the Administrator imposed condition which reads thus :

1. They shall deposit donation in the bank account and shall submit the details of the donation received and expenditure incurred to the devasthan committee after the completion of the renovation work.
2. They shall ensure that the proper account is maintained in the registers.
3. The Devasthan Committee shall also keep a supervisory check on the Jirnodhar Committee to avoid any misappropriation of funds collected from the devotees.
4. The Jirnodhar Committee shall also take utmost care while incurring the expenditure and shall leave no room for any doubt and suspicion.
5. The Managing Committee and Jirnodhar Committee shall be liable/responsible for any mismanagement/misappropriation of the fund, any irregularities committed with respect to the fund collected by the Jirnodhar Committee.
6. Once the project of the renovation of work is completed the balance funds with the Jirnodhar Committee shall be handed over to the Managing Committee of Shree Sateri Devasthan Ibrambur. “

On perusal of the said conditions, we find that adequate safeguards have been taken by the Administrator whilst granting such permission. There are no allegations, prima facie, of misappropriation by the Petitioners and, as such, we find that there is no case made out by the Petitioners for any interference in the impugned decisions by the authorities in exercise of jurisdiction under Article 226 and 227 of the Constitution of India. No doubt, Respondent nos. 4 to 8 ought to have followed the Devasthan Regulations before carrying out the renovation activities but, however, considering the view taken by the Administrator in the larger interest of the devotees, we find that the question of interfering in such impugned decision would not at all be justified.

7. Subject to the above, the Petition stands rejected.

K. L. WADANE, J.

F. M. REIS, J.

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