

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 972 OF 2016

M/S. TRIUMPH REALTY PVT. LTD.,
THR. ITS AUT. SIG. MR. RAJESH
RUSTAGI.,

... Petitioner

Versus

THE MINISTRY OF ENVIRONMENT,
FORESTS AND CLIMATE CHANGE, GOVT.
OF INDIA AND 3 ORS.,

... Respondents

Shri S.S. Kantak, Senior Advocate with Shri P. Rao, Advocate for the petitioner.

Shri M. Amonkar, Central Government Standing Counsel for the respondent no.1.

Shri S.D. Lotlikar, Advocate General with Shri Deep Shirodkar, Additional Government Advocate for the respondent nos.2,3 and 4.

Shri Nigel D'Costa Frias, Advocate for the Intervenor.

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

Date:- 13th October, 2016

P.C.:

Heard Shri S.S. Kantak, learned Senior Advocate for the petitioner, Shri S.D. Lotlikar, learned Advocate General for the respondent nos.2,3 and 4, Shri M. Amonkar, learned Central Government Standing Counsel for the respondent no.1 and Shri Nigel D'Costa Frias, learned Advocate for the Intervenor.

2. We have heard the above petition for sometime. It is a undisputed fact that the grievances sought to be raised in the above petition with

regard to the demolition orders issued by the respondent no.3 were the subject matter of the challenge in this Court in Writ Petition No.951/2015 which was disposed of on 08/06/2016 wherein the learned Counsel appearing for the petitioner sought leave to withdraw the said petition with liberty to pursue an appropriate remedy to challenge such order.

3. The learned Additional Government Advocate in fact made a statement that the ad-interim Orders passed therein be kept in operation for a period of eight weeks from the said date. The petitioner apparently proceeded with the proceedings which were pending before the MOEF in connection with the subject structure in respect of the structure in question which was the subject matter of the order passed by GCZMA and did not choose to file any proceedings to challenge such order.

4. Shri Kantak, learned Senior Advocate points out that in the present petition the petitioners are not challenging the order passed by the GCZMA, but only requesting to issue directions to the respondent no.1 and 3 to dispose of the petition pending before them expeditiously within a time frame.

5. Shri M. Amonkar, learned Central Government Standing Counsel appearing for the respondent no.1 states that such proceedings shall be disposed off within a period of 20 days from today.

6. Mr. Kantak, learned Senior Counsel also points out that a review petition is also pending before the GCZMA. The learned Advocate General states that the order passed by the GCZMA has attained finality and in any event, the pending review petition shall be disposed off expeditiously.

7. Mr. Kantak, learned Senior Counsel however points out that the respondent no.3 be directed not to act upon the order of demolition of GCZMA.

8. While disposing off the Writ Petition No.951/2015 by order dated 08/06/2016, this Court had observed that the order shall not be in operation for a period of eight weeks from the said date based on the statement. Apparently the petitioner did not take any steps to obtain any interim order against the demolition order passed by the respondent no.3.

9. Shri Nigel D'Costa Frias, learned counsel for the intervenor also points out that the proceedings with regard to the same structure are also pending before the NGT initiated by the Intervenor. In such circumstances, it would not be appropriate to this Court to pass any ad-interim order at this stage as the petitioner if so advised are at liberty to pursue appropriate remedy in law and obtain reliefs in connection with the demolition order passed against the petitioner.

10. In view of the above, accepting the statements of the learned Advocate General appearing for the respondent nos.2, 3 and 4 and Shri M. Amonkar, learned Central Government Standing Counsel for the respondent no.1 that proceedings pending would be disposed off expeditiously, nothing survives in the above petition. It is made clear that we have not examined the merits of the rival contentions and as such all contentions of the parties, on merits, are left open.

11. Petition stands disposed off accordingly.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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