

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 903 OF 2015

MR. K. K. GANESHAN, THROUGH ITS
POA MRS.SARITA M. DIAS.

... Petitioner

Versus

THE STATE OF GOA, THROUGH ITS
CHIEF SECRETARY AND 4 ORS.,

... Respondents

Adv. Sagar Malkarnekar U/las for the Petitioner.

Adv. Somnath B. Karpe for Respondent nos. 4 & 5.

Coram:- C. V. BHADANG, J.

Date:- 22nd March, 2016

Oral Order:

Heard the learned counsel for the petitioner and the learned counsel appearing for the respondent nos. 4 and 5. The learned Additional Government Advocate appears for respondent nos.1 to 3.

2. Although by this petition, the petitioner is praying for a relief which is said to be a innocuous relief, I find that the same cannot be granted in the fact and circumstances of the case. The petitioner is seeking a direction to the respondent no.2, i.e., the Dy. Director of Panchayats to dispose of the complaint bearing no.DDPN/Chandel-Hasapur/6/2015 within a stipulated period. On the last date, the learned Addl. Government Advocate was asked to make a statement about the status of the said complaint. According to the learned Addl. Government Advocate, the petitioner has not even furnished a copy of the complaint to the respondent nos. 4 and 5 and as such, the complaint could not be proceeded with. It was contended

on behalf of the respondent no.2 that it was on account of the lapse of the petitioner that the complaint could not be proceeded expeditiously. It was not disputed on behalf of the petitioner that a copy of the complaint was not served on respondents nos. 4 and 5.

3. That apart, it appears that the petitioner had earlier approached this Court in Writ Petition no.520/2014 with a similar direction to the respondent no.2 therein for taking action on the basis of the complaint lodged by the petitioner as regards the illegal construction activity carried out by respondent nos.9 and 10 (who are respondents no.4 and 5 herein). The Division Bench of this Court by judgment and order dated 19/8/2014 had found that the direction could not be given inter alia on the ground that the petitioner had availed of a parallel remedy of filing a civil suit in respect of subject right of way and alleged encroachment thereon. It may be significant to note that when the Division Bench refused the relief to the petitioner the suit was pending. It is undisputed that the suit is now decided on 11/9/2014 and has been dismissed. If that be so, the petitioner would not be entitled to any relief as prayed for in this petition. In such circumstances, I decline to exercise the extra ordinary jurisdiction.

4. The writ petition is accordingly dismissed.

C. V. BHADANG, J.

ap/-