

**IN THE HIGH COURT OF BOMBAY AT GOA**

**WRIT PETITION NOS. 964/2015, 965/2015, 967/2015 to  
1003/2015, 45/2016, 46/2016, 49/2016 to 56/2016  
AND 60/2016**

**WRIT PETITION NO. 964/2015**

Smt. Ratna Shattri, major of  
age, residing at House No.6-2-  
49/B, Near Ice Factory, Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa. ... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa. ... Respondent

**WRIT PETITION NO. 965/2015**

Nagawwa Johny Pereira, major  
of age, residing at House  
No.89 Near Ice Factory, Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa. ... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa. ... Respondent

**WRIT PETITION NO. 967/2015**

Mahadev Yellavva Harijan,  
major of age, residing at  
House No. 66, Near Basaveshwar  
Temple, Near Ice Factory, Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa. ... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 968/2015**

Bibijan Rehmutterulla Khan, (since  
deceased through her son), Mr.  
Kalendar Rehmutterulla Khan,  
major of age, residing at  
House No.6/2/35, 240 (new) Near  
Ice Factory, Near Salgaoncar  
Qtrs, Katem, Baina, Vasco da  
Gama, Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 969/2015**

Ramesh Chalwadi, major of age,  
residing at House No.238/6,  
(299 Old), Near Ice Factory,  
Near Salgaoncar Qtrs, Katem,  
Baina, Vasco da Gama, Mormugao,  
Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 970/2015**

Lalsab Nadaf, major of age,  
residing at House No.71/G1-  
55, 249 (old), Near Basaveshwar  
Temple, Near Ice Factory, Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 971/2015**

Yellappa Harijan, major of  
age, residing at House No.  
261 Near Ice Factory, Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 972/2015**

Smt. Dilshad Begum Shaikh,  
major of age, residing at  
House No.6/2/35, Near Ice  
Factory, Near Salgaoncar Qtrs,  
Katem, Baina, Vasco da Gama,  
Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 973/2015**

Siddava Chandra Totad, major  
of age, residing at House  
No.149 Near Ice Factory, Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 974/2015**

Yeshwant Kenchappa Bisnal,  
major of age, residing at  
House No. 6/2/34, 325(new),  
Near Ice Factory, Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 975/2015**

Hanumawa Chalwadi, major of  
age, residing at House  
No.7/92(2), Near Basaveshwar  
Temple Near Ice Factory, Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 976/2015**

Girija Yamnappa Gotanji, major  
of age, residing at House  
No.7/94(1), Near Ice Factory,  
Near Salgaoncar Qtrs, Katem,  
Baina, Vasco da Gama,  
Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 977/2015**

Laxmi Ganati, major of age,  
Residing at House No.244  
(new), Near Ice Factory, Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 978/2015**

Chandappa Madar, major of age,  
residing at House No.6/2/43,  
Near Ice Factory , Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 979/2015**

Haralappa Harijan, major of  
age, residing at House  
No.6/2/43, Near Ice Factory,  
Near Salgaoncar Qtrs, Katem,  
Baina, Vasco da  
Gama, Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 980/2015**

Hanumant Madar, major of age,  
residing at House No.294, Near  
Ice Factory, Near Salgaoncar  
Qtrs, Katem, Baina, Vasco da  
Gama, Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 981/2015**

Chandrappa Holler, major of  
age, residing at House No.  
190, Near Basaveshwar Temple,  
Near Ice Factory, Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 982/2015**

Basappa Harijan, major of age,  
residing at House No.14, Near  
Ice Factory, Near Salgaoncar  
Qtrs, Katem, Baina, Vasco da  
Gama, Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 983/2015**

Shakhavva Harijan, major of  
age, residing at House No.  
Near Ice Factory , Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 984/2015**

Shree. Laxmi Temple, through  
its President, Shri.  
Yelgurdappa B. Chawadi, major  
of age, Near Ice Factory, Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 985/2015**

Hiranna M. Bullappa, major of  
age, residing at House No.398,  
Near Basaveshwar Temple Near  
Ice Factory, Near Salgaoncar  
Qtrs, Katem, Baina, Vasco da  
Gama, Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 986/2015**

Naresh Phadte, major of age,  
residing at House No.  
16(old)/187(new), Near Ice  
Factory, Near Salgaoncar Qtrs,  
Katem, Baina, Vasco da Gama,  
Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 987/2015**

Yelgurappa B. Chalwadi, major  
of age, residing at House No.  
276, Near Basaveshwar Temple,  
Near Ice Factory, Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 988/2015**

Ghanasham Kahar, major of age,  
residing at House No.28(old),  
243/4, Near Ice Factory, Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa.

... Petitioner

Versus



The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 989/2015**

Elemina Almeida Vaz, major of  
age, residing at House  
No.71/293, Near Basaveshwar  
Temple, Near Ice Factory, Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 990/2015**

Maniklal R. Saroj, major of  
age, residing at House  
No.71/CL/32, Near Basaveshwar  
Temple, Near Ice Factory, Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 991/2015**

Smt. Gauri Kassar (since  
deceased), through her  
daughter in law, Smt. Sukanti  
Kassar, wife of late Manjunath  
Kassar, major of age, residing  
at House No.6/2/33, Near Ice  
Factory, Near Salgaoncar Qtrs,

Katem, Baina, Vasco da Gama,  
Mormugao, Goa. ... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa. ... Respondent

**WRIT PETITION NO. 992/2015**

Yallawwa Harijan, major of  
age, residing at House No.64  
Near Ice Factory, Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa. ... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa. ... Respondent

**WRIT PETITION NO. 993/2015**

Mumtaz Bi Hawaldar, major of  
age, residing at House No.  
6/2/68/A, Near Basaveshwar  
Temple Near Ice Factory, Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa. ... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa. ... Respondent

**WRIT PETITION NO. 994/2015**

Smt. Renuvva Kholkar, major of  
age, residing at House No.311,  
Near Ice Factory, Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa. ... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 995/2015**

Yellappa B. Chalwadi, major of  
age, residing at House  
No.276/71, Near Ice Factory,  
Near Salgaoncar Qtrs, Katem,  
Baina, Vasco da Gama,  
Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 996/2015**

Allabaksh Pathan, major of  
age, residing at House  
No.6/2/49(D),78 Near Ice  
Factory, Near Salgaoncar Qtrs,  
Katem, Baina, Vasco da Gama,  
Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 997/2015**

Venkatesh Bullappa, major of  
age, residing at House No.  
398, Near Ice Factory, Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa. ... Respondent

**WRIT PETITION NO. 998/2015**

Chanavva R. Harijan, major of  
age, residing at House  
No.6/2/53,359(old), Near  
Basaveshwar Temple, Near Ice  
Factory, Near Salgaoncar Qtrs,  
Katem, Baina, Vasco da Gama,  
Mormugao, Goa. ... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa. ... Respondent

**WRIT PETITION NO. 999/2015**

Tipavva Vadhar, major of age,  
residing at House No. 142,  
Near Basaveshwar Temple Near  
Ice Factory, Near Salgaoncar  
Qtrs, Katem, Baina, Vasco da  
Gama, Mormugao, Goa. ... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa. ... Respondent

**WRIT PETITION NO. 1000/2015**

Gangaya Dabimath, major of  
age, residing at House No.106,  
Near Ice Factory, Near  
Salgaoncar Qtrs, Baina, Vasco  
da Gama, Mormugao, Goa. ... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 1001/2015**

Devappa Madar, (since deceased)  
through his wife, Mrs. Masawwa  
Madar, major of age, residing  
at House No. 6/2/50A, Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 1002/2015**

Ram Krishna Raut, major of  
age, residing at House No.96  
(1), Near Ice Factory, Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 1003/2015**

Renuka Mardi, major of age,  
residing at House No.81,  
67(old), Near Ice Factory,  
Near Salgaoncar Qtrs, Katem,  
Baina, Vasco da Gama,  
Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 45/2016**

Smt. Magdalina Cardoz Fonseca,  
major of age, residing at  
House No. 106, 108(new), Near  
Ice Factory, Near Salgaoncar  
Qtrs, Katem, Baina, Vasco da  
Gama, Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 46/2016**

Parushram Naik, major of age,  
residing at House No.164, Near  
Basaveshwar Temple, Near Ice  
Factory, Near Salgaoncar Qtrs,  
Katem, Baina, Vasco da Gama,  
Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa.

... Respondent

**WRIT PETITION NO. 49/2016**

Shri Rangappa, Kadhimari,  
major of age, residing at  
House No. 71/229, 508(old),  
Near Ice Factory, Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa.

... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa. ... Respondent

**WRIT PETITION NO. 50/2016**

Shantavva Madar, major of age,  
residing at House No. 71/A(C-  
40-48(1)(old), Near Ice  
Factory, Near Salgaoncar Qtrs,  
Katem, Baina, Vasco da Gama,  
Mormugao, Goa. ... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa. ... Respondent

**WRIT PETITION NO. 51/2016**

Smt. Kamala Devi Shukla, major  
of age, residing at House No.  
95, Near Ice Factory, Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa. ... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa. ... Respondent

**WRIT PETITION NO. 52/2016**

Smt. Somavva Chalwadi, major  
of age, residing at House No.  
6/2/41, Near Basaveshwar  
Temple, Near Ice Factory, Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa. ... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa. ... Respondent

**WRIT PETITION NO. 53/2016**

Shri Balappa Chalwadi, major  
of age, residing at House No.  
111, Near Ice Factory, Near  
Salgaoncar Qtrs, Katem, Baina,  
Vasco da Gama, Mormugao, Goa. ... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa. ... Respondent

**WRIT PETITION NO. 54/2016**

Shri Bassapa Chalwadi, major  
of age, residing at House No.  
6/2/49/D(new), 235(old), Near  
Ice Factory, Near Salgaoncar  
Qtrs, Katem, Baina, Vasco da  
Gama, Mormugao, Goa. ... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa. ... Respondent

**WRIT PETITION NO. 55/2016**

Laxman Gurbal, (since deceased)  
through his son, Mr. Hulgappa  
Gulbal, major of age, residing  
at House No. 1/63, Near Ice  
Factory, Near Salgaoncar Qtrs,  
Katem, Baina, Vasco da Gama,  
Mormugao, Goa. ... Petitioner

Versus



The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa. ... Respondent

**WRIT PETITION NO. 56/2016**

Chandravva Rathod (since  
deceased), Ms. Kushma Gangappa  
Rathod, major of age, residing  
at House No.265, near  
Basaveshwar Temple, Near Ice  
Factory, Near Salgaoncar Qtrs,  
Katem, Baina, Vasco da Gama,  
Mormugao, Goa. ... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa. ... Respondent

**WRIT PETITION NO. 60/2016**

Mr. Pirappa Harijan, (since  
deceased) through his son Mr.  
Hanumappa Harijan, major of  
age, residing at House No.  
6/2/49/F, Near Ice Factory,  
Near Salgaoncar Qtrs, Katem,  
Baina, Vasco da Gama,  
Mormugao, Goa. ... Petitioner

Versus

The Chief Officer, Mormugao  
Municipal Council, with office  
at Municipal Council Building,  
Mormugao - Goa. ... Respondent

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Mr. J.E. Coelho Pereira, Senior Advocate with Mr.  
V. Braganza, Advocate for the Petitioners.

Mr. S.D. Padiyar, Advocate for the Respondent.

**CORAM:- C. V. BHADANG, J.**

**RESERVED ON:- 22<sup>nd</sup> AUGUST, 2016**

**PRONOUNCED ON:- 29<sup>th</sup> AUGUST, 2016**

**JUDGMENT:**

Rule in all the petitions. The learned Counsel for the respondent waives service. Heard finally by consent of the parties.

2. All these petitions involve a challenge to the notice of demolition, issued by the Mormugao Municipal Council of the structures in occupation of the petitioners. The petitions involve common and connected questions. As such, all these petitions are being disposed of by this common judgment.

3. The facts necessary for the disposal of these petitions may be stated thus:

That Shri Anand Chandra Bose, Chairman and Managing Director of M/s. Anand Bose Constructions Pvt. Ltd. had lodged a complaint with the Mormugao Municipal Council on 18.03.2010, complaining about

the illegal construction in property under Chalta No.38 of P.T. Sheet No.153, Vasco-da-Gama. On the basis of the said complaint, the Municipal Council issued individual notices under Section 184 of the Goa Municipalities Act, 1968 (the Act, for short) in June 2010. It further appears that the Municipal Council conducted spot inspection and a document of transgression was prepared, which showed existence of illegal structures in the said land. This was followed by a letter being issued to the petitioners for personal hearing. The petitioners appeared and filed reply contending that the subject structures were about 35 to 40 years old. It was contended that the petitioners were possessing election cards, electricity bills and house tax receipts, which showed their long standing possession of the suit structures.

4. The competent authority of the Municipal Council after considering the documents produced and hearing the petitioners, found that the documents were of recent origin and the

petitioners were unable to substantiate the claim that the structures were about 35 to 40 years old. It was further found that no survey plan was produced showing the existence of the structures. The Municipal Council also found that there was no permission/license issued for construction of the said structures. In that view of the matter, by separate orders dated 20.12.2012 and 18.01.2013, the Municipal Council directed the petitioners to demolish the said structures, within a period of 15 days, failing which action of demolition was to be undertaken.

5. The petitioners challenged the action of the Municipal Council before the Municipalities Appellate Tribunal (Tribunal, for short) by filing separate appeals.

6. The Tribunal by Judgment and order dated 23.02.2015 has dismissed the appeals.

7. It may be mentioned at this stage that some of the petitioners had approached the State Government, against the order of the Tribunal by filing Second Appeals under Section 184 (D) of the said Act. However, prior to the filing of the appeals, this Court had declared the said provision as unconstitutional. In that view of the matter, the appeals were not entertained. The petitioners are thus, challenging the order of the Tribunal, in these petitions, under Article 227 of the Constitution of India.

8. I have heard Shri Pereira, the learned Senior Counsel for the petitioners and Shri Padiyar, the learned counsel appearing for the respondent. With the assistance of the learned Counsel for the parties, I have perused the impugned order passed by the Municipal Council as well as the Tribunal.

9. The learned Senior Counsel for the petitioners has raised two contentions. It is

submitted that invocation of powers under Section 184 of the Act by the Municipal Council was bad, as the subject structures were "existing structures", and were assessed for the purpose of house tax. The contention is that, Section 184 of the Act can be invoked only where the Municipal Council finds that a person has begun new construction, without valid license. Secondly, it is contended that the impugned order passed by the Municipal Council are in breach of the principles of natural justice. It is contended that the subject structures are in a private property. The learned Senior Counsel submits that the petitioners have applied for regularisation of the structures, in view of the Goa Regularisation of Unauthorized Construction Ordinance, 2016 (Ordinance of 2016, for short). The petitioners reserve liberty to pursue the same.

The learned Senior Counsel, has made an alternate submission that in the event, this Court is not inclined to interfere, reasonable time may be granted to the petitioners to vacate the

structures, as the petitioners are coming from the lower strata of the society and are staying in the subject structures along with their families, which includes school going children.

10. On the contrary, the learned counsel for the respondent has supported the impugned order. It is submitted that both the authorities have concurrently found that the documents produced by the petitioners were of recent origin and were not sufficient to substantiate the claim of the petitioners that they were occupying the subject structures for a period of 35 to 40 years. It is submitted that the petitioners are neither claiming, nor have produced any licence/permission for erection, of the subject structures. It is submitted that the Municipal Council had issued show cause notice, to which the petitioners had filed reply and produced documents and were personally heard. The learned counsel submits that the petitions are without any merit.

11. I have carefully considered the rival circumstances and the submissions made.

12. At the outset, it is not in dispute that the petitioners have not obtained any permission/license for construction of the structures. Thus, admittedly, the structures are without any permission/license from the Municipal Council. The contention is that under Section 184(8) of the Act, the Municipal Council can take action only where a person "begins any construction of a building". In other words, it is contended that the same would not apply to buildings/structures of which, the construction is complete. The Tribunal has noticed the provisions of Section 184 of the Act and has held that the section has to be read as a whole. The Tribunal has found that Section 184(2) mandates obtaining of permission for construction, while Section 184(8) speaks about construction already made, when the demolition notice is issued. It has been found that there is a provision for regularisation



of the construction. In that view of the matter, the Tribunal has found that the argument that action can be initiated only at the beginning of the construction, cannot be accepted as in the opinion of the Tribunal "in that case, there would not be any provision for regularisation of the constructed structure".

Apart from the reasoning as articulated by the Tribunal, it would be preposterous to assume that under Section 184(8), action can be taken only when the construction begins and not thereafter. No provision can be read or interpreted in a manner, which would lead to absurdity and a situation which is incongruous. It is not possible to envisage that action against illegal construction can be taken only till, the construction is complete and not thereafter. Such an interpretation would not only be against the letter and spirit of the Act, but would tend to put premium on the act of a person, who would complete the illegal construction, before it could be noticed by the Municipal Council. Such an

interpretation to my mind cannot be accepted and has been rightly negated by the Tribunal.

13. The next contention is that the subject structures are about 35 to 40 years old and are assessed for the purpose of house tax. It is contended that the electricity connection as also water connection have been released in respect of the subject structures. The Tribunal has found that under Section 184(12) of the Act, there is no time limit for the Chief Officer to inspect any such work. The Tribunal has found that according to the petitioners, the structures came into existence somewhere in the year 1975, while the Act came into force in 1968. Thus, it was necessary for the petitioners to have obtained the necessary permission/license.

14. As noticed earlier, admittedly, the petitioners are not having any such license/permission. The Municipal Council as well as the Tribunal has appreciated the material

produced and has found that the same is not sufficient to substantiate the claim that the structures are about 35 to 40 years old. The learned Senior Counsel for the petitioners was unable to point out that the said finding of fact recorded by the Authority/Tribunal below, is perverse, as not being borne out of record.

15. The compilation filed on record shows that the petitioners were allowed to file reply and produce documents and were heard. Thus, the contention that the impugned order suffers from breach of principles of natural justice cannot be accepted.

16. Insofar as the assessment of structures for house tax is concerned, the Tribunal has placed reliance on the decision in the case of **Jagdish Amritlal Karia and Another Vs. Bombay Municipal Corporation of Greater Bombay and Another**, 2001(4) Bom.C.R. 673, in which it has been held thus:

*"Chapter VIII deals with the municipal taxes. Section 142 to 145 thereof deals with the property taxes leviable, Section 146 to 148 deals with the liability to pay property taxes, Section 149 to 155 deals with the value of property assessable to the property tax is to be made. It is clear that the Sections 140, 143, 154 and 155 use the words "building and/or, land" no section or provision is pointed out which orders that the buildings should be legally constructed or authorisedly constructed for the purpose of taxation".*

It can thus be seen that in respect of a similar provision about assessment of tax, as contained in the Mumbai Municipal Corporation Act, 1888, it has been held that the building should not be legal or authorised, for the purpose of tax. Thus, mere imposition of house tax is not sufficient to hold that the construction is legally effected after obtaining necessary permission/ license. I have carefully gone

through the judgment and order passed by the Tribunal and I do not find that it suffers from any infirmity so as to require interference.

17. This takes me to the alternate submission advanced on behalf of the petitioners. The petitioners have stated that they have applied for regularisation of the structures on the basis of Ordinance of 2016 to the competent authority and they may be granted reasonable time to vacate the premises/structures.

18. I have considered the submission made. It is needless to mention that the competent authority will have to consider the claim for regularisation if made, in accordance with the provisions of Ordinance of 2016 and any other legal provisions, as may be applicable. It is neither necessary nor appropriate to express any opinion on the merits of the claim of the petitioners for regularisation under the said Ordinance of 2016.

Insofar as the request for grant of time is concerned, the learned Counsel for the respondent states that in the event, this Court is inclined to grant time, reasonable time upto 30.09.2016 may be granted.

19. Considering the current monsoon season and the ensuing festivities, I find it appropriate to grant time to the petitioners to vacate the structures upto 31.12.2016.

20. In the result, the following order is passed:

**O R D E R**

(a) The petitions are dismissed.

(b) However, the impugned notice of demolition shall not be implemented till 31.12.2016.

(c) The competent authority shall decide the application for regularisation if, already filed and pending, in accordance with the provisions of Ordinance of 2016 and in accordance with law.

(d) The petitions are disposed of in the aforesaid terms, with no order as to costs.

**C. V. BHADANG, J.**

AP/EV