

IN THE HIGH COURT OF BOMBAY AT GOA**PUBLIC INTEREST LITIGATION WP NO.25 OF 2015**

- 1 Shri Prashant Rajaram Naik,
s/o. Rajaram Naik,
38 years of age,
Occupation : self employed,
R/o. House No.522, Girvaswada,
Kundaim, Ponda-Goa 403 115,
FAX Number : Nil
Mobile Number : 7798669882
Resident Number : Nil
PAN Number : AHBPN5508N
National Unique Identity Number : Nil
Email Address :
naikyash673@gmail.com
Annual Income Rs.72,000/- approx.
- 2 Shri Santosh Mahanandu Naik
s/o. Mahanandu Naik,
51 years of age,
Occupation : business,
R/o. House No.203, Near Hanuman
Temple, Wadiwada, Kundaim, Ponda-
Goa 403 115,
FAX Number : Nil
Mobile Number : 9823558212
Resident Number : Nil
PAN Number : ABSPN6150H
National Unique Identity Number : Nil
Email Address :
yesyamnaik@gmail.com
Annual Income Rs.6 lakhs approx.
- 3 Shri Kamalakant Bhikaro Phadte
s/o. Bhikaro Phadte,
47 years of age.
Occupation : self employed
(professional)
R/o. House No.765, Manaswada,

Kundaim, Ponda-Goa 403 115,
FAX Number : Nil
Mobile Number : 9822104487
Resident Number : Nil
PAN Number : ADZPP6836D
National Unique Identity Number : Nil
Email Address :
kbphadte@rediffmail.com
Annual Income Rs.7 lakhs approx.

- 4 Shri Ushno Kanta Naik,
s/o. Kanta Naik,
42 years of age,
Occupation : service,
R/o. H.No.124/1, Wadi-wada,
Kundaim, Ponda-Goa 403 115,
FAX Number : Nil
Mobile Number : 9545384802
Resident Number : Nil
PAN Number : Not available
National Unique Identity Number : Nil
Email Address : not available
Annual Income Rs.1.8 lakhs approx.

- 5 Shri Sandesh Vithal Naik,
s/o. Vithal Naik,
51 years of age,
Occupation : service,
R/o. H.No.214, Dassol wada,
Kundaim, Ponda-Goa 403 115,
FAX Number : Nil
Mobile Number : 9673500249
Resident Number : Nil
PAN Number : AEDPN1388K,
National Unique Identity Number : Nil
Email Address : not available
Annual Income Rs.5,04,000/- approx.

- 6 Shri Ritesh Jagannath Narvekar,
s/o Jagannath Narvekar,
37 years of age,

Occupation : business,
R/o. H.No.1144, Manaswadda,
Kundaim, Ponda-Goa 403 115,
FAX Number : Nil
Mobile Number : 9822102960
Resident Number : Nil
PAN Number : ACEPN7567P
National Unique Identity Number : Nil
Email Address :
sign.company@rediffmail.com
Annual Income Rs.4.5 lakhs approx.

7 Shri Shivanand Mhablu Phadte,
s/o. Mhablu Phadte,
41 years of age
Occupation : service
R/o. H.No.734, Phadte waddo,
Kundaim, Ponda-Goa 403 115,
FAX Number : Nil
Mobile Number : 9423888857
Resident Number : Nil
PAN Number : APBPP0627A
National Unique Identity Number : Nil
Email Address :-----
Annual Income Rs.5 lakhs approx.

8 Shri Jayesh Gajanan Tari,
s/o Gajanan Tari,
39 years of age,
Occupation : service,
R/o. H. No.539, Manaswada,
Kundaim, Ponda-Goa 403 115,
FAX Number : Nil
Mobile Number : 9850474138
Resident Number : Nil
PAN Number : AKHPT2845F
National Unique Identity Number : Nil
Email Address : not available
Annual Income Rs.3,60,000/- approx.

9 Shri Vaman Shridhar Satarkar,

s/o. Shridhar Satarkar,
53 years of age,
Occupation : Business
R/o. H.No.662, Manaswada,
Kundaim, Ponda-Goa 403 115,
FAX Number : Nil
Mobile Number : 7798676104
Resident Number : Nil
PAN Number : FUKPS4690P
National Unique Identity Number : Nil
Email Address :not available
Annual Income Rs.72,000/- approx.

.... Petitioners

V/s

- 1 The State of Goa,
Through its Chief Secretary,
Secretariat, Porvorim, Goa.
- 2 The Deputy Collector & SDO,
Ponda, Goa.
- 3 The Block Development Officer,
Ponda, Ponda-Goa.
- 4 The Deputy Director of Panchayats,
North Goa, Panaji, Goa.
- 5 The Deputy Conservator of Forests,
North Goa Division, Ponda, Goa.
- 6 The Deputy Town Planner,
Town & Country Planning Department,
Ponda-Goa.
- 7 M/s. Ramesh Phadte & Others
A partnership firm, registered under the
Partnership Act, 1932, with office at
C/o. Tapobhoomi, Kundaim, Ponda,

Goa, 403115, through its partners

(i) Shri Ramesh G. Phadte

Son of Gurudas J. Phadte, major.

(ii) Shri Madhusudan Krishna Naik,

major, son of Krishna Naik.

(iii) Shri Gajanan Ladu Mandrekar,

Son of Shri Ladu Mandrekar, major.

(iv) Shri Jaivas Naik,

Son of Mr. Jaganath Naik, major.

(v) Shri Amar Narendra Parsekar

Son of Mr. Narendra Parsekar, major

All c/o. Tapobhoomi, Kubdaim

Opp. Kundaim Industrial Estate,

Ponda, Goa.

8 The Executive Engineer
Water Resources Department
Works Division XII, Sub Div-1,
Margao, Goa.

9 The Village Panchayat of Kundaim
Through its Secretary,
Kundaim, Ponda, Goa.

.... Respondents

Mr. Nigel Da Costa Frias, Advocate for the petitioners.

Mr. A.N.S. Nadkarni, Advocate General with Mr. P. Dangui, Additional
Government Advocate for Respondents No.1 to 6.

Mr. S.S. Kantak, Senior Advocate with Mr. I. Agha, Advocate for
Respondents No.7(i) to 7(v).

Mr. S. Karpe holding for Mr. V. Pangam, Advocate for Respondent No.9.

**CORAM : F.M. REIS &
K.L. WADANE, JJ.**

DATE : 22nd MARCH, 2016

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

Heard Mr. Nigel Da Costa Frias, the learned Counsel appearing for the petitioners, Mr. A.N.S. Nadkarni, the learned Advocate General appearing for the respondents no.1 to 6, Mr. S.S. Kantak, the learned Senior Advocate appearing for respondents no.7(i) to 7(v) and Mr. S. Karpe holding for Mr. V. Pangam, Advocate for respondent no.9.

2. Rule. Heard forthwith with the consent of the learned Counsel. The learned Counsel appearing for the respondents waive service.

3. Upon hearing the learned Counsel appearing for the respective parties, the above petition can be disposed of on a short point raised by the petitioners that inspite of objections raised by the petitioners with regard to the development activity carried out by the respondent no.7 in the subject property, no action was taken by the concerned authority.

4. Mr. Nigel Da Costa Frias, the learned Counsel appearing for the petitioners has pointed out that according to the petitioners the subject property is a private forest and that without obtaining the conversion certificate or any permission from the local Panchayat, the respondent no.7 started some development. The learned Counsel further pointed out

that despite of complaints lodged before the concerned authority no action was being taken by the authorities with regard to the subject development carried out by the respondent no.7.

5. On the other hand, Mr. S.S. Kantak, the learned Senior Counsel appearing for respondent no.7 has submitted that the authorities have already acted in the matter and in fact according to him the Deputy Collector has already issued an order dated 18/12/2015, inter alia, directing the respondent no.7 to restore the land to its original condition. The learned Senior Counsel further submits that the respondent no.7 has also preferred an appeal against the said order before the learned Administrative Tribunal and a stay has been obtained of the operation of such order. The learned Senior Counsel further pointed out that the Deputy Director of Panchayat has assumed powers under Section 66(5) of the Goa Panchayat Raj Act and has issued notice for inspection to the respondent no.7 in connection with the subject development. The learned Senior Counsel, as such, submits that since action has already been contemplated by the concerned authorities, the question of entertaining the petition would not arise at all. The learned Senior Counsel further submits that in any event the remedies available to the respondent no.7 in accordance with law have to be protected while

disposing the above petition.

6. The learned Advocate General appearing for respondents no.1 to 6 has submitted that the authorities have already acted in the matter and in fact the learned Deputy Director of Panchayat issued an order under the Land Revenue Code. The learned Advocate General further pointed out that though the Deputy Director has assumed powers under Section 66(5) of the Goa Panchayat Raj Act, nevertheless, in the meanwhile the local Panchayat has already taken action by taking a resolution in connection with the subject development. The learned Advocate General further pointed out that as far as the contention of the petitioners that the subject land is a private forest, this aspect has already been examined by the concerned authorities and necessary action for any violation would be taken with that regard in accordance with law.

7. We have considered the submission of the learned Counsel and we have also gone through the records. Based on the submissions of the learned Counsel appearing for the respondents, we find that the concerned authorities have already taken action in connection with the subject development by initiating proceedings under the Land Revenue Code as well as under the Goa Panchayat Raj Act. The learned Advocate

General has also pointed out that in case of any violation by the respondent no.7 as the subject land is identified as a private forest, necessary action on that count would be taken by the concerned authorities, in accordance with law..

8. Considering the above and as such action has already been initiated, we find that the question of entertaining the above petition at this stage would not arise. Needless to state that the concerned authorities shall proceed with the action initiated or to be initiated after hearing the concerned parties in accordance with law. All the contentions of the respondent no.7 on merits are left open.

9. At this stage, Mr. Nigel Da Costa Frias, the learned Counsel appearing for the petitioners brought to our notice that though an order was passed by the learned Deputy Collector on 18/12/2015, inter alia, directing the respondent no.7 to restore the land to its original position and further directing the electricity department, the water department and the Panchayat not to grant any essential services to such project, by an ex-parte stay obtained from the learned Administrative Tribunal, would permit the respondent no.7 to change the status quo at the site.

10. Mr. S.S. Kantak, the learned Senior Counsel appearing for the respondent no.7, upon instructions, submitted that respondent no.7 would not change the status quo at the site during the pendency of such proceedings before the learned Administrative Tribunal and that the respondent no.7 shall proceed with the development only after obtaining all the requisite permissions from the concerned authorities in accordance with law. In view of the said statement of the learned Senior Advocate Mr. S.S. Kantak, which is accepted, we find that the apprehension of the petitioners that the respondent no.7 would change the status quo based on the ex-parte stay order passed by the learned Administrative Tribunal, would not survive.

11. We dispose of the above petition on the aforesaid terms. Rule stands disposed of accordingly with no order as to costs. In case any applications are filed by the respondent no.7 with regard to the subject development, the concerned authorities shall examine such applications as expeditiously as possible.

12. Mr. Nigel Da Csota Frias, the learned Counsel appearing for the petitioners submits that he desires to intervene in the proceedings before the learned Administrative Tribunal. Mr. S.S. Kantak, the learned Senior

Counsel for the respondent no.7 has no objection. Hence, the petitioners are at liberty to file an appropriate application before the learned Tribunal or any concerned authority to seek appropriate relief with that regard, in accordance with law.

K.L. WADANE, J.

NH/-

F.M. REIS, J.