

IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION (REVIEW) NO. 23 OF 2015

IN

PUBLIC INTEREST LITIGATION WP NO. 18 OF 2014

SHRI.AGNEEL FERNANDES.

... Applicant

Versus

SHRI ANTONIO SYLVESTER D'SOUZA AND
4 ORS.,

... Respondents

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

Mr. D. Pangam, Advocate for the respondent No.1.

Mr. S. Dhargalkar, Additional Govt. Advocate for the respondents
No.3 and 4.

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

Date:- 4th January, 2016

P.C.:

Heard Mr. Nigel Costa Frias, learned Counsel appearing for the applicant, Mr. D. Pangam, learned Counsel appearing for the respondent No.1 and Mr. S. Dhargalkar, learned Counsel appearing for the respondents No.3 and 4.

2. This is an application for review of the Judgment and Order dated 14th October, 2015 passed by this Court in Public Interest Litigation WP No.18/2014.

3. Mr. Nigel Costa Frias, learned Counsel appearing for the applicant has pointed out that whilst disposing of the Public Interest

Litigation Writ Petition, this Court has come to the conclusion that the order passed by the learned District Judge dated 13th April, 2012 was itself to be quashed and set aside. The learned Counsel points out that the applicant was one of the co-applicants before the learned District Judge and, as such, this Court, without giving an opportunity to the applicant to be heard, could not have set aside such orders passed by the learned District Judge. The learned Counsel further points out that this exercise has caused grave prejudice to the applicant as, according to him, under the garb of demolition order dated 17/8/2002, an altogether different structure belonging to the applicant is sought to be demolished. The learned Counsel further points out that it was the contention of the applicant that based on the said demolition order, the Authorities could not proceed to demolish the said different structure located in the subject property.

4. On the other hand, Mr. D. Pangam, learned Counsel appearing for the respondent No.1 has submitted that the present application is an abuse of process of law. The learned Counsel has pointed out that even in the proceedings under Section 178 of the Goa Panchayat Raj Act, the mother of the applicant had filed an affidavit, inter alia, contending that the structure which was subject-matter of the impugned order, belonged to one Martin Fernandes-respondent No.5 herein and the brother of the applicant. The learned Counsel further points out that there is no foundation in the proceedings initiated by the said mother of the applicant to

contend that a different structure is being demolished based on the impugned order of demolition. The learned Counsel, as such, points out that there is no error apparent on the face of the record which would all for interference of this court.

5. We have considered the submissions of the learned Counsel and we have also gone through the record. On perusal of the directions issued by this Court, it clearly reveals that the order dated 17/8/2002 has been directed to be complied with by the respondents No.1 and 2 therein. Even assuming the case of the applicant, as contended by Mr. Nigel Costa Frias, learned Counsel appearing for the applicant is accepted, it appears prima facie that it is the contention of the applicant that the structure which the applicant claims claim to have some interest, is not the subject-matter of the impugned demolition order dated 17/8/2002.

6. In such circumstances, we find that there is no error apparent on the face of the record which would call for interference in the Judgment passed by this Court. The Judgment had been passed examining the contentions of the respondent No. 1, as well as the respondent No.5 herein who was party to the said Public Interest Litigation. In fact, no such contention on that count was raised whilst deciding the said Public Interest Litigation Writ Petition.

7. Hence, we find that there is no merit in the above application. The application stands, accordingly, rejected.

K. L. WADANE, J.

F. M. REIS, J.

ssm.