

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 320 OF 2016

MR.ANTHONY @ ANTONIO FERNANDES. ... Petitioner
Versus
THE VILLAGE PANCHAYAT OF
NAQUERI-BETUL, THROUGH ITS
SARPANCH AND 6 ORS., ... Respondents

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

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

Date:- 29th March, 2016

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

Heard Mr. Nigel Da Costa Frias, the learned Counsel appearing for the petitioner.

2. The above petition takes exception to the construction activity being carried out by the respondent no.4 in the property surveyed under no.106/1 of village Naqueri, Canguinim, which was sold by the family members of the petitioner to the respondent no.4.

3. Mr. Nigel Da Costa Frias, the learned Counsel appearing for the petitioner has submitted that the petitioner is a neighbour of the respondent no.4 who has demolished his construction and reconstructed the subject structure by extending the plinth area and in violation of the repair licence issued by the local panchayat. The

learned Counsel further submits that no permission from the CRZ authority was obtained by the respondent no.4 whilst carrying out such construction. The learned Counsel further submits that though the Deputy Director of Panchayat assumed powers under Section 66(5) of the Panchayat Raj Act, no conclusive decision has been taken by the authorities though a report was made with that regard and there is no further action taken by the local panchayat. The learned Counsel further submits that though the petitioner has learnt that an appeal has been preferred, according to him, there is no stay granted on such impugned decision. The learned Counsel further submits that as far as the violation of the CRZ Regulations is concerned though there is a report submitted by the Expert Committee there is no final decision taken by the respondent no.6. The learned Counsel, as such, pointed out that the authorities be directed to expeditiously decide and pass an order based on the report of the Expert Committee.

4. We have considered the submissions of the learned Counsel and we have also gone through the records. As far as the violation of the CRZ Regulations is concerned, the authorities would have to take their decision in accordance with law based on the report claimed to have been prepared by the Expert Committee. At this stage, we find that the question of exercising extra ordinary jurisdiction under Article 226 of the Constitution of India, based on the report, would not at all be justified unless such decision is arrived at.

5. As far as the grievance of the petitioner that there is a violation of the repair licence issued by the respondent no.4, we find that as it is not disputed that an appeal is preferred before the competent authority, at this stage, the question of issuing any direction with that regard would not at all be justified when there is no positive material produced by the petitioner to examine whether any orders have been passed by the appellate authority. The petitioner cannot resort to a fishing enquiry by filing the present petition. It is also not disputed that in fact there was a licence issued by the Village Panchayat which is accepted to have been breached. Hence, we find no interference is called for in the above petition under Article 226 of the Constitution of India. Hence petition stands rejected. Needless to say the statutory Authority shall examine the complaints by the petitioner on its own merits in accordance with law as expeditiously as possible.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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