

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO.12496 OF 2015

North Goa District Advocates Association
and Another.

.. Petitioners

Vs

High Court of Bombay and Goa,
Through Registrar General,
High Court, Fort Mumbai and Others.

.. Respondents

—
Shri Rajiv Patil, Senior Advocate along with Shri Gauresh Agni i/by Shri
Onkar Virendra Warange for the Petitioners.

Makarand S. Karnik for the Respondent Nos.1 and 2 - High Court
Administration.

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CORAM : A.S. OKA & S.C. GUPTE, JJ

DATED : 8TH JANUARY 2016

ORAL JUDGMENT (PER A.S. OKA, J)

1. This Petition concerns a decision taken by the Administrative Side of this Court of shifting the Civil and Criminal Courts in the District Court Building of North Goa at Panaji at Goa to a new premises made available by the Government of Goa. A decision taken was to shift the four Civil and Criminal Courts to the 3rd, 4th, 5th and 6th floors of the building known as “Spaces Building” (for short “the new building”) at Patto Plaza, Panaji,Goa. The said decision was challenged by the present Petitioners by filing a Writ Petition being Writ

Petition No.8306 of 2015. The said said Writ Petition was rejected by this Court by its judgment and order dated 8th September 2015.

Paragraphs 21 and 22 of the said judgment and order read thus:

“21. However, the four Courts will be shifted to the said new building only as a temporary arrangement and the same will be brought to the proposed new Court complex on Mercedes land. Secondly, it is too late in the day to interfere with the decision of shifting four Courts for temporary period especially considering the finding recorded earlier on the aspect of gross delay in approaching the Court. Thirdly, there is an assurance given by the Goa State Pollution Control Board in paragraph 10 of the affidavit of its Member Secretary to take all necessary steps. Moreover, we are informed that all the four floors in the new building are air-conditioned. Inconvenience, if any, which is likely to be caused to the Members of the Bar and Litigants can be minimized by directing the Goa State Pollution Control Board to make frequent site visits and to take statutory action of issuing directions and ensuring the compliance thereof. Moreover, if construction of the new Court complex is not completed within the time specified in the affidavit of the State Government, appropriate directions can be always issued in appropriate proceedings. Hence, we are of the view that no interference can be made mainly on the ground of delay and on the ground that the shifting of Courts will be on temporary basis only till January 2018. The other two factors are the steps assured to be taken by the Pollution Control Board and the fact that all the four floors are air-conditioned.

22. We may record here that **High Court Administration will have to consider whether instead of shifting all the four Courts it is possible to shift the record and muddemal to the new building so that instead of four**

Courts, only one or two Courts can be shifted. The question whether more space can be created in the existing building by shifting the muddemal and other articles will have to be considered by the High Court Administration. From the photographs produced by the learned counsel for the High Court Administration it appears that the condition of the existing building is not at all bad.”

(emphasis added)

2. The operative part of the said judgment and order reads thus:

- “(I) The Petition is rejected with no order as to costs;
- (II) We direct the Government of Goa to complete the Construction of the Court complex at merces in all respects till 15th January 2018. The Construction shall be completed in such a manner that the actual use of the Building can be commenced on 16st January, 2018 ;
- (III) The Government of Goa shall submit quarterly reports to this Court on the progress made in the construction of the Court complex. Photographs shall be submitted along with the report. The Government shall serve copies of the reports to the Petitioners;
- (IV) The Goa State Pollution Control Board shall submit the quarterly reports to this Court on the steps taken by it for reducing/preventing the nuisance created by the garbage dump. The Pollution Control Board shall serve copies of the reports to the Petitioners;
- (V) The first of such reports shall be filed before the end of January 2016;
- (VI) If the Construction of the Court Complex on Merces land is not completed on or before 15th January 2018 and if the nuisance caused by the garbage dump continues till then, it will be open

to the Petitioners to file a fresh Petition seeking appropriate reliefs;

(VII) The High Court Administration to consider whether the muddemal and other record can be shifted to the new building instead of shifting total four Courts to the new building so that more space can be created in the existing building to accommodate the Courts;

(VIII) For considering the compliance reports, the Petition shall be placed for directions on 2nd February 2016.”

3. Thereafter, Civil Application No.2727 of 2015 was taken out by the Petitioners herein in the said disposed of Writ Petition. It was disposed of by an order dated 29th September 2015. Clauses 3 and 4 of the said order read thus:

3. **The learned counsel for the High Court Administration states that before actually shifting the Courts to the Spaces building, the High Court Administration will take appropriate decision in terms of clause (VII) of Paragraph 24 of the judgment and order dated 8th September 2015. We accept the said statement. We direct that the decision taken by the High Court Administration be communicated to the petitioners/applicants.**

4. With the above directions, Civil Application stands disposed of.”

(emphasis added)

4. A letter dated 7th December 2015 was issued by the Registrar (Inspection-II) to the President of the first Petitioner

Association by which he was informed as per the directions of the Hon'ble the Acting Chief Justice that it is not possible and feasible to shift the muddemal and records in the present District Court building to the new building instead of shifting the four Courts to the new building. A notice dated 8th December 2015 was issued by the learned Principal District Judge, North Goa, Panaji recording that all the four Civil and Criminal Courts in the District Court Building at Panaji will start functioning in the new building with effect from 9th December 2015. The communication dated 7th December 2015 and the said notice dated 8th December 2015 [Exhibit-P to the Petition (Collectively)] are the subject matter of challenge in this Petition under Article 226 of the Constitution of India.

5. There is a consequential prayer made for issuing a writ of mandamus directing the Respondents to shift muddemal and other records in the old District Court Building to the new building instead of shifting the said four Courts. Another prayer is for reconsideration of the decision of not shifting the record to the new building.

6. The learned senior Counsel for the Petitioner submitted that on 23rd September 2015, the Hon'ble Acting Chief Justice gave an assurance to the Petitioners that their representation would be considered by a Committee of this Court. He urged that according to the

Petitioners, the assurance has not been complied with. His submission is that a decision has been hurriedly taken and was implemented immediately without giving even a reasonable time to the Petitioners. The decision was communicated only to the first Petitioner. He urged that the Petitioners were not heard. He urged that the decision is erroneous.

7. The learned counsel appearing for the High Court Administration has placed for perusal of the Court a compilation of documents. We have perused the same. The said compilation shows that in the meeting of the Administrative Committee of the Judges of this Court held on 30th November 2015, the issue of shifting of muddemal and records to the new building instead of shifting the Courts was specifically placed for consideration along with a detailed note dated 27th November 2015 prepared by the Registry. The note records several factors. It records that there are 82 steel and wooden racks provided in the Record Room of the old District Court Building in which 90,000 disposed of files are kept. It is stated that the compactors provided in the Record Room in the premises of the new building will not be able cope up with such voluminous record as the compactors have been provided only to keep the current disposed of files. It is stated in the said note that the Muddemal Room in the present District Court Building is four times bigger than what is provided in the premises in the new Building and therefore, it is not possible to shift

such voluminous record as well as muddemal to the premises in the new building. The note also records that a letter dated 26th November 2015 was issued by the Joint Secretary of the General Administrative Department of the Government of Goa by which it was informed that even after spending huge amount by the Government on furnishing and interior work of the Court premises as well as on payment of rent, the premises in the new building are lying unoccupied for a long time. In the said letter, it was stated that if the Courts are not shifted to the new building, the allotment of the premises in the new building will be canceled and the said premises will be allotted to some other Department.

8. In the meeting of the Administrative Committee of the Judges of this Court held on 30th November 2015, a decision was taken to disapprove the proposal of shifting the muddemal and other records to the premises in the new building instead of shifting the Courts to the new building. A direction was given to communicate the said decision to the first Petitioner as well as the learned Principal District Judge of North Goa.

9. In paragraph 16 of the Petition, The Petitioners have stated thus:

“16. Petitioners state that since no compliance was being given effect to, the Petitioners approached the Hon'ble the Acting Chief Justice for an audience to appraise the Hon'ble the Acting Chief Justice of the issue at hand. The audience was given on 23/09/2015 and taking cognizance of the present subject matter, it was informed that the Petitioners representation would be placed before the Hon'ble High Court Committee, the process would require considerable time and the Petitioners should seek 8 weeks of interim relief from the Hon'ble High Court in the writ petition No.8306/15.”

10. There is nothing on record to show that such assurances were given. Moreover, no such case was made out in Civil Application No. 2727 of 2015 which was affirmed on 23rd September 2015 and heard on 29th September 2015. Nevertheless, the decision, as stated above, was taken by the Committee of the Administrative Judges of this Court on 30th November 2015. The said Committee is of the five Senior Most Judges including Hon'ble the Acting Chief Justice. One of the five members recused himself from the participation and decision on the subject.

11. Perusal of the judgment and order dated 8th September 2015 passed by this Court in Writ Petition No.8306 of 2015 shows that the challenge to the decision to shift the Civil and Criminal Courts to the new building was rejected on the basis of the reasons specifically set out in Paragraph 21 of the said judgment. Thus, the decision to shift the Civil and Criminal Courts to the new building is affirmed by the said

judgment and order. During the course of submissions, the learned counsel appearing for the Petitioners pointed out that the said judgment and order is a subject matter of challenge in the pending Special Leave Petition in which no ad-interim relief has been granted.

12. The observations made in Paragraph 22 of the said judgment and order to consider the case of shifting of the muddemal and other records to the new building instead of shifting the Courts were made in the light of the suggestion made by the Petitioners. Without disturbing the decision to shift the Courts to the new building, it was observed that the said suggestion should be considered. Accordingly, the High Court Administration has considered it. The decision on the question whether muddemal and record should be shifted to the new building or the Courts should be shifted there should be best left to the High Court administration. The Members of the Bar cannot participate in the said decision making process. In writ jurisdiction under Article 226 of the Constitution of India, the said decision which is taken by the High Court Administration through its Administrative Committee after taking into consideration all the relevant factors cannot be interfered with. Hence, there is no merit in the Petition and we pass the following order.

ORDER :

- (a) The Petition is rejected;
- (b) At this stage, the learned Senior Counsel appearing for the Petitioners seeks order of status-quo. The learned counsel appearing for the High Court Administration states that the Courts which are shifted to the new building have already started functioning. Hence, the prayer for grant of status-quo is rejected.

(S.C. GUPTE, J)

(A.S. OKA, J)