

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 137 OF 2017

MR. MELWYN MASCARENHAS AND 5 ORS., ... Petitioners
Versus
M/S. IQRA HOSPITALITY SERVICE,
THR. ITS PARTNERS AND 2 ORS., ... Respondents

Shri Nigel Da Costa Frias, Advocate for the petitioners.
Shri Shivan Desai, Advocate for the respondent no.1.
Shri Dattaprasad Lawande, AG with Ms. P.Sawant, AGA for the
respondent no.2.

Coram:- F. M. REIS &
PRITHVIRAJ K. CHAVAN, JJ.

Date:- 15th June, 2017

P.C.

Heard Shri Nigel Da Costa Frias, learned counsel appearing for the petitioners, Shri Shivan Desai, learned counsel appearing for the respondent no.1 and Shri Dattaprasad Lawande, learned AG appearing for the respondent no.2.

2. The grievance of the petitioners in the above petition is essentially that the respondent no.1 has without obtaining the requisite permission under the Statutory Regulation has converted the stilt parking area of the subject building located in the property Survey no.198/3 of Calangute village and has also started putting up third floor to such building without such permissions.

3. Shri Shivan Desai, learned counsel appearing for the respondent no.1 has filed an affidavit, inter alia, pointing out that a revision of plan have been sought which would take care of the grievances referred by the petitioner as mentioned hereinabove and that such applications are pending for decision before the respondent no.2.

4. Shri Dattaprasad Lawande, learned Advocate General appearing for the respondent no.2 points out that the applications filed for such revision by the respondent no.1 are being placed at the next meeting by the Planning Authority, which is scheduled on 28th June, 2017 and a decision with that regard is expected to be taken on the said date.

5. Shri Nigel Da Costa Frias, learned counsel appearing for the petitioners, however, submits that during the interregnum, the respondent no.1 should not be permitted to in any way carry out any activities in the disputed portion of the building namely the stilt parking area and the third floor under construction of the building. Shri Shivan Desai, learned counsel appearing for the respondent no.1 brings to our notice an undertaking furnished by the respondent no.1 at para 7 of the said affidavit which reads thus:

"I say that Petitioners have approached this Honourable Court in light of the works being carried out by Respondent No.1 on the stilt area of the building and the inaction on the part of the Respondent Nos.2 and 3. Without prejudice to the rights and contentions of Respondent no.1, I on behalf of Respondent no.1 undertake not to carry out any further subject construction without the application for revision of plans being decided by Respondent no.2."

6. Shri Shivan Desai, learned counsel, upon instructions of the authorised representative of the respondent no.1, gives an undertaking that no construction activity shall be carried out either in the stilt parking area or on the third floor under construction until a decision is taken on the pending applications of the respondent no.1.

7. Accepting the said undertaking, we find that the apprehension of the learned counsel appearing for the petitioner would no longer survive. In the peculiar facts and circumstances of the case, we dispose of the above petition by directing the respondent no.2 to take a decision on the applications filed by the respondent no.1 for revision of plan preferably within one month from today in accordance with the law. Needless to say that if no favourable decision is taken, the respondent no.2 and other

concerned authorities shall proceed to take action in accordance with law.

PRITHVIRAJ K. CHAVAN, J.
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F. M. REIS, J.