

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 124 OF 2017

SHRI. SURESH SATU CHODANKAR., ... Petitioner
Versus
VILLAGE PANCHAYAT OF ANJUNA
CAISUA, THR. ITS
SARPANCH/SECRETARY AND ANR., ... Respondents

Shri Jitendra P. Supekar, Advocate for the petitioner.
Shri A. D. Bhobe, Advocate for the respondent no.1.
Ms. Reshma Satardekar, Advocate for the respondent no.2.

Coram:- M. S. SONAK, J.

Date:- 17th April, 2017

P.C.

The challenge in this petition is to the order dated 18.11.2016 made by the Ad-hoc District Judge-I, Mapusa in Civil Revision Application No.36/2016.

2. The learned District Judge-I at paragraph 16 has observed thus:-

" I have perused both these authorities in deciding the case at hand and the ratio applied in both these cases get squarely attracted to the facts of the present case. Since the dispute is between the two brothers in respect of the illegal construction being made without obtaining prior permission and without conversion, the said illegal construction made by the appellant can be regularized by the Panchayat by imposing a fine because of the ratio laid down in both the above cases which strictly states that each and every construction is not required to be

demolished if it can be regularised under the relevant provisions of the Act. Hence, in view of the above reasons, the point No.(1) is answered in the affirmative."

3. Mere circumstance that the parties are brothers does not mean that authorities can issue a positive directions to regularise illegal construction. At the highest a direction could have been given to consider the application for regularisation in accordance with law and on its own merits. Accordingly, the impugned order is modified to the said extent.

4. Ms. R. Satardekar, learned Counsel for the respondent no.2 has pointed out that the respondent no.2 had, in pursuance of the impugned order applied to the Panchayat for regularisation. However, Panchayat has directed the respondent no.2 to approach the Deputy Collector Mapusa, particularly since, respondent no.2 had applied for to avail the benefit of Goa Regularisation of Unauthorised Constructions Act, 2016 and proper authority in this regard is the Collector/Deputy Collector Mapusa. She submits that the application of the respondent no.2 for regularisation is now pending before the Deputy Collector, Mapusa.

5. In the aforesaid circumstances, the Deputy Collector, Mapusa is directed to dispose of such application in accordance with law on its own merits without being influenced by any of the observations in the impugned order. Further, such application is to be disposed of within a period of eight weeks from today.

Decision on this application has to be communicated to both the petitioner as well as the respondent no.2 within a period of two weeks thereafter.

6. Petition is disposed of in the aforesaid terms. There shall be no order as to costs.

7. All concerned to act on the duly authenticated copy of this order.

M. S. SONAK, J.

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