

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 352 OF 2016

SHRI. EKNATH SHAHAPURKAR (SINCE
DEC) THR. LRS. AND ANR.,

... Petitioners

Versus

THE CHIEF OFFICER, MORMUGAO
MUNICIPAL COUNCIL AND ANR.,

... Respondents

Mr. Arjun F. Naik, Advocate for the Petitioners.

Mr. Sandesh D. Padiyar, Advocate for Respondent No.1.

Coram:- C. V. BHADANG, J.

Date:- 16th January, 2017

P.C:

The petitioners are challenging the judgment and order dated 18.02.2015, passed by the Goa Municipalities Appellate Tribunal (the Tribunal, for short), by which the final demolition notices/orders dated 13.05.2010 and 20.05.2010, issued by the respondent no.1, have been confirmed. The subject matter of dispute is 16 square metres of construction, which is held to be without license from the respondent no.1.

2. It is contended on behalf of the petitioners that the petitioners had filed an application seeking repairs, as the front portion of the house had fallen in disrepairs. It is submitted that there was correspondence between the respondent no.1 and the petitioners, in which the respondent no.1 had sought certain details, which have been furnished. It is submitted that the

respondent no.1 having failed to issue the license within time, there is deemed permission in favour of the petitioners.

3. Mr. Padiyar, the learned Counsel for the respondent no.1 has pointed out that the front portion was entirely demolished and new RCC construction is undertaken, which is clearly without license and as such, the Tribunal has rightly dismissed the appeal, confirming the demolition notices.

4. At this stage, it is submitted by the learned Counsel for the petitioners that the petitioners have moved the Planning Authority for regularisation. Mr. Padiyar, the learned Counsel for the respondent no.1 states that if, such an application is filed and is referred to the respondent no.1, the same shall be considered on its own merits, in accordance with law.

5. I find that the Tribunal had specifically framed point no.2 on the aspect of deemed permission and has rightly answered the same in the negative. Thus, no case for interference is made out. It will be open to the respondent no.1 to consider the application dated 28/29.12.2016 for regularisation, if filed and referred to it, in accordance with law. The competent Authority shall consider the application on its own merits, as expeditiously as possible and preferably within a period of 12 weeks from today.

6. The Writ Petition is disposed of, with no order as to costs.

C. V. BHADANG, J.

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