

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 521 OF 2017

SHRI. SAILESH MAHIMTURA, REP. THR,
CONST. ATT., SHRI. HARSH SABARWAL
AND 3 ORS.,

... Petitioners

Versus

STATE OF GOA, THR. ITS CHIEF
SECRETARY AND 3 ORS.,

... Respondents

Mr. S. S. Kantak, Senior Advocate with Adv. Jitendra P. Supekar
for the Petitioners.

Ms. N. Kholkar, Addl. Government Advocate for Respondent
nos.1,2 and 3.

Mr. Nigel Da Costa Frias, Advocate for Respondent no.4.

Coram:- C. V. BHADANG &
PRITHVIRAJ K. CHAVAN, JJ.

Date:- 8th September 2017

Oral Order:

Leave to correct the prayer clause granted. Necessary
correction to be carried out forthwith.

2. Heard Shri Kantak, the learned Senior Counsel for the
petitioners, Ms. Kholkar, the learned Additional Government
Advocate for the Respondent nos.1, 2 and 3 and Shri Costa Frias,
the learned counsel for the respondent no.4.

3. The petitioners are intending to construct six residential bungalows in land surveyed under no.53/5 of Village Velsao, Mormugao-Goa since the year 2000. The Goa State Coastal Committee on Environment (GSCCE) had issued clearance for construction way back on 11/2/1997. The plans were also approved. On 11/3/1998, the Dy. Collector and SDO, Mormugao had granted a conversion sanad acting on the basis of the clearance granted by the GSCCE. The Town and Country Planning authority had also granted the necessary clearance on 19/2/1997. Acting on all these clearances and the conversion sanad, the fourth respondent/Village Panchayat, Velsao-Pale had issued the necessary construction licence on 6/9/1998. It appears that the petitioners also commenced the construction somewhere in the year 1998.

4. In October 2000, the Goa Coastal Zone Management Authority (GCZMA) issued a stop work notice on the ground that the matter would be reexamined in the context of the location of the said plot vis-a-vis the No development zone (NDZ). The petitioners repeatedly represented to the GCZMA and last of such representations was made on 24/3/2012. Ultimately the petitioners were required to approach this Court in Writ Petition no.473/2013 which was decided on 14/8/2013 on the basis of the statement made on behalf of the GCZMA that the Show Cause Notice shall be disposed of, within a period of six

moths. Indisputably the GCZMA conducted an inspection and the inquiry committee after giving a personal hearing to the petitioners submitted its report on 24/7/2014. The GCZMA after considering the said report withdrew the Show Cause Notice-cum-Stop work order on 19/9/2014.

5. It is a matter of record that the Town and Country Planning authority has granted technical clearance and subsequently the Director of Health Services has granted no objection.

6. The petitioners ultimately approached the Village Panchayat for renewal of the construction licence on 7/4/2017. The Village Panchayat had decided to have a joint inspection on 25/4/2017. However, the officers of GCZMA and the Town and Country Planning department did not remain present. The inspection was carried out by the officers of the Village Panchayat in the presence of the petitioners on 25/4/2017. According to the Village Panchayat there are certain sand dunes falling in the area of the proposed construction and as such, the Village Panchayat refused to renew the construction licence on 16/5/2017. Feeling aggrieved the petitioners are before this Court. The petitioners by this petition are seeking a direction to the fourth respondent to consider their application for renewal of the construction licence.

7. On hearing the learned counsel for the parties, we find that

all the statutory authorities including the Town and Country Planning Department, the GCZMA and the Director of Health Services have granted the necessary clearance/ permission/ NOC for the proposed construction by the petitioners. It would thus be necessary for the Village Panchayat to consider the application filed by the petitioners for renewal of the construction licence in accordance with law and in the light of the said permission/ clearance and NOC granted by the statutory authorities. The learned counsel for the parties submit that the Village Panchayat along with the officers from GCZMA and Town and Country Planning departments will hold a joint inspection in the presence of the Attorney of the petitioners and the Village Panchayat shall consider the application for renewal in accordance with law, within a period of four weeks thereafter.

8. In the circumstances the following order is passed:

- (i) The petition is allowed. The impugned order dated 16/5/2017 is hereby set aside.
- (ii) There shall be a joint inspection at the site by the officers of the Town and Country Planning Department, GCZMA and the Village Panchayat in the presence of the Attorney of the petitioners on 25/9/2017 at 4.pm.
- (iii) The respondent no.4 shall then consider the application for renewal in accordance with law in the context of the NOC/

Permission/ Clearance granted, within a period of four weeks thereafter.

PRITHVIRAJ K. CHAVAN, J.

C. V. BHADANG, J.

ap/-