

Atul

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 825 OF 2017

Kedar Phadte

...Petitioner

Versus

Administrator of Comunidades, North Zone, ...Respondents
Mapusa & Anr

Mr Dhaval Damodar Zaveri, for the Petitioner.

CORAM: G.S. Patel, J.

DATED: 14th September 2017

PC:-

1. There is no dispute that the Petitioner has absolutely no permission whatsoever for the illegal structures that he has admittedly constructed on plot No. 82 of survey No. 176/1 of the Serula Comunidade. There is also no dispute that he is an encroacher.

2. The challenge in this Writ Petition under Article 226 of the Constitution of India is to an order dated 21st August 2017 of the Administrator of Comunidade's North Zone, Respondent No. 1. By this communication, the 1st Respondent said that his office had received a complaint from one Rupali Volvaikar of Tiswadi about illegalities on this plot No. 82, survey No. 176/1, Village Penha de Franca, Comunidade of Serula. The 1st Respondent's office carried out an inspection. The surveyor found that the Petitioner

had constructed two underground tanks and a room, and erected a compound wall on the plot in question. The 1st Respondent's office also found that Rupali Volvoikar had applied for the plot and this application had been processed by the Comunidade. A show-cause notice was issued on 28th July 2017 to remove these structures immediately. A copy of the show-cause notice is annexed at Annexure "K", page 50. The Petitioner replied to this show-cause notice on 2nd August 2017 (Annexure "L" at page 51), saying that the compound wall was merely protecting but importantly in paragraph 4 of that reply admitting that the construction was "to be started" after obtaining all approvals but that the "arrangement of the said tanks" had been made for water storage (self-evident) for construction work. This peculiar assertion is explained with somewhat greater clarity but equally unfortunate consequences in paragraph 17 at page 10 of the petition where the Petitioner accepts that the application for the plot itself was under consideration but the works in question "will not be crystallized without any sanction, since it is merely an arrangement".

3. As an admission of illegality, it does not get any clearer than this. Mr Zaveri argues that in the impugned order there is a blank regarding the date of an order of the revenue department. That surely cannot assist him in his endeavour to quash the order.

4. I see absolutely no reason to interfere with the order. On 11th September 2017, the matter was mentioned before me as the judge to whom such matters are assigned (CV Bhadang J) expressed his inability to take it up in the circumstances noted in my order of that date. On that date I also granted a stay till today restraining

Respondents Nos. 1 and 2 from proceeding with demolition of the Petitioner's structures. That order obviously cannot continue.

5. The writ petition is rejected. No order as to costs.

6. The previous ad-interim order stands vacated.

7. For formality and record the writ petition will be get numbered. Further leave to amend to include the order dated 8th September 2017 by which the Petitioner withdrew his Comunidade unregistered appeal of 2017.

(G.S. Patel, J)