

Amrut

***IN THE HIGH COURT OF BOMBAY AT GOA***

***WRIT PETITION NO.925 OF 2017***

Joseph Lobo @ Jose Lobo & Anr.

... Petitioners

Versus

The Commissioner of Corporation of  
City of Panaji & Anr.

.... Respondents

Mr. Rohit Shirodkar, Advocate for the Petitioners.

Mr. S. Karpe, Advocate for Respondent No.1.

Mr. H. D. Naik, Advocate for Respondent No.2.

***Coram : N.M. Jamdar &  
Prithviraj K. Chavan, JJ.***

***Date : 13 December 2017.***

**P.C.:**

By this petition, the Petitioners have sought the following  
prayer.

*“This Hon'ble Court be pleased to issue an order and direction in the nature of the writ of mandamus directing Respondent No.1 to forthwith grant the construction licence for the balance portion of the compound wall in terms of the application dated 6 January 2016 made by the Petitioners.”*

2. The grievance of the Petitioners is that the Petitioners have been granted permission to construct a compound wall by the Municipal Corporation however, the permission is not in terms of the application dated 6 January 2016 and the Municipal Corporation has only granted the permission for a portion of the wall as sought for which makes the construction of the compound wall unworkable. However we do not find that after the grant of permission/partial permission as contended, the Petitioners have not made any representation to the Municipal Corporation that the permission granted is unworkable and the Petitioners have directly approached this Court. Therefore on 29 November 2017, the following order was passed.

*“Mr. Nikhil Pai, learned Advocate for the Petitioners seeks time to ascertain wherein grievance in writing was made to the Municipal Council that the permission is granted only to the part of the compound wall as applied.*

*2. It is put to the learned Advocate for the Petitioners that if no such grievance in writing is made it would be appropriate to the Petitioners to make such grievance in writing and then approach this Court.*

*3. At his request, stand over to 13 December 2017.”*

3. The learned counsel for the Petitioner has tendered an affidavit however, this affidavit does not state that any representation as mentioned in the order dated 29 November 2017 was made. In these circumstances, it will be appropriate that the Petitioners first approach the Municipal Corporation with their grievance which the Corporation will decide.

4. To avoid any further delay, we permit the Petitioners to treat the Writ Petition as a representation since the Writ Petition is already served on the Municipal Corporation. The learned counsel for the Municipal Corporation states that the concerned officer from the Municipal Corporation will consider the Writ Petition as a representation of the Petitioners and take a decision thereupon as early as possible preferably within a period of three months from today. We make it clear that since we have found that the Petitioners' grievance made in the petition need not be considered at the first instance by this Court, we have passed the above order and we have not looked into the merits of the grievance of the Petitioners nor the rival contentions of the Municipal Corporation and the representation will be decided on its own merits. The Writ Petition is accordingly disposed of.