

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 756 OF 2011

MR. LEO TOSCANO AND ANR., ... Petitioners
Versus
STATE OF GOA, BY ITS CHIEF
SECRETARY AND 3 ORS., ... Respondents

Smt. A. Agni, Senior Advocate with Ms. H. Modi, Advocate for the petitioners.

Mr. S. D. Lotlikar, Advocate General with Mr. P. Faldessai, Additional Government Advocate for respondent nos.1 and 2.

Ms. P. Kaur, Advocate for respondent no.3.

Mr. C. Fonseca, Advocate for respondent no.4.

Coram:- C. V. BHADANG &
NUTAN D. SARDESSAI, JJ.

Date:- 10th February, 2017

P.C.

Heard Smt. Agni, the learned Senior Counsel for the petitioners, Shri Lotlikar, the learned Advocate General for respondent nos.1 and 2, the learned Counsel for the third respondent and the learned Counsel for the fourth respondent.

2. This petition is filed for the following substantive reliefs :

"(a) For a declaration that Regulation 4.11(d) of the Goa Land Development & Building Construction Regulations, 2010 is unconstitutional, ultra vires, illegal and void;

- (b) For a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, direction or order under Article 226 of the Constitution of India commanding the respondent no.1 to forthwith withdraw/ cancel/ revoke its decision contained in noting dated 26/8/11, to grant NOC to acquire a passage through the petitioners' said property bearing survey no.1/1 of Assolna village along with NOC if issued.
- (c) For a writ of certiorari or a writ in the nature of certiorari or any other appropriate writ, direction or order under article 226 of the Constitution of India quashing and setting aside the impugned order of the Dy. Town Planner dated 19/10/11."

3. Smt. Agni, the learned Senior Counsel for the petitioners does not press for the relief in prayer clause (a) above.

4. In so far as the relief at prayer clause (b) is concerned, the learned Advocate General states that for want of further instructions and follow up by the third respondent, the Government shall withdraw from the proposed acquisition. In so far as the relief claimed in prayer clause (c) is concerned, the learned Advocate General, on instructions from the Town Planner, Margao, who is present before the Court, states that consequent upon withdrawal from the acquisition, the second

respondent shall withdraw the order dated 19/10/2011. The statement is accepted.

5. In such circumstances, nothing survives in the petition. The petition is accordingly disposed of. Rule is discharged, with no order as to costs.

NUTAN D. SARDESSAI, J.
SMA

C. V. BHADANG, J.