

vinita

IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO.1065 2017.

Shri Satish Kashinath Parab.,
major in age, Indian National,
r/o H. No. 91, Ghoteli No. 2,
Keri Sattari- Goa.

.....Petitioner.

Versus

- 1 State Of Goa, Through the
Chief Secretary, Secretariat,
Porvorim, Bardez, Goa.
2. Deputy Town Planner,
Town and Country Planning
Dept., Bicholim/Sattari Taluka,
Bicholim-Goa.
3. Health Officer,
Directorate of Health Services,
Primary Health Centre,
Sankhali-Goa.
4. Registration Authority,
Dept. of Food & Drugs Admn.
Government of Goa,
“Dhanwantari”, Opp. Holy Cross
Chapel, Bambolim-Goa
403202.

5. Mr. Atmaram P. Shetye,
Sarpanch, Village Panchayat
of Poriem, Poriem-Sattari
Goa.

.....Respondents.

Mr. V. Rodrigues and Mr. V. Naik, Advocates for the Petitioner.
Mr. A. Talaulikar, Addl. Government Advocate for Respondent Nos.1
to 4.

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

Date : 18 December 2017.

ORAL JUDGMENT: (Per N.M. Jamdar, J.)

The learned Counsel for the Petitioner states that presence of Respondent no.5 is not necessary for deciding the controversy in the manner as indicated. He seeks leave to delete Respondent no.5. Leave to amend for that purpose is granted.

2. Rule made returnable forthwith. Learned Additional Government Advocate waives notice on behalf of the Respondent Nos. 1 to 4.

3. The Petitioner has challenged the orders passed by the Deputy Town Planner, Health Officer and the Registration Authority Department of Foods and Drugs Administration dated 25 September

2017, 17 October 2017 and 21 November 2017. According to the Petitioner, a construction licence was issued to the predecessor of the Petitioner and the Petitioner purchased the property in the year 2011. It is contention of the Petitioner that the main order passed of revoking building construction is on the ground that the Petitioner is carrying out hill cutting activity. It is the grievance of the Petitioner that this hill cutting activity if at all carried out it is in the corner of the larger property with which the Petitioner has no concern, however, based on the same, several licences by other Authorities have been cancelled.

4. On 12 December 2017 when the Petition came out for consideration, the arguments of the learned Counsel for the petitioner was that the petitioner was not given notice before passing the impugned order by the Town Planner, was noted. However, at that time we had found that there was no assertion made by the petitioner on oath that his name appears in the Record of Rights. The learned Counsel for the Petitioner points out that the Petitioner has carried out amendment and the copy of the records is annexed at Exh.A-1. The learned Counsel for the Petitioner points out that name of the Petitioner appears as an 'Occupant' at Serial No.1 itself.

5. The Order dated 21 November 2017 i.e. revocation

order refers to notice given to one Pandurang Sadekar. It is the case of the Petitioner that the Petitioner has purchased the property from Pandurang Sadekar and further sold some portions of the property. According to the Petitioner, the order of revocation dated 21 November 2017 is a primary order for which notice should have been given to the Petitioner as his business of restaurant is also stopped.

6. Considering the implications of the impugned order for the Petitioner, we deem it appropriate that the Petitioner is given hearing by concerned Authorities, as the grievance of the Petitioner otherwise would have to be considered by this Court in the Writ Petition for the first time. The learned Counsel for the Petitioner, on instructions states that till the decision upon hearing the Petitioner is given, the Petitioner will abide by effect of the impugned orders. The Writ Petition will have to be disposed of by directing the Respondent nos.2, 3 and 4 to give an hearing to the Petitioner and pass an order as per law irrespective of the fact that impugned orders have not been set aside, since we have found that orders of revocation which is the genesis was passed without hearing the Petitioner. The Respondent no.2 Deputy Town Planner will decide the issue first and depending on his order other authorities can take appropriate decision.

7. The Deputy Town Planner will call the Petitioner for

hearing on 22 December 2017 at 11.00 am. Since earlier orders were passed within seven days of the notice, we direct the Deputy Town Planner to decide the issue by 3 January 2018, more particularly, since the Petitioner has made a statement that he will abide by the status quo. The other Authorities will also fix a date by mutual convenience and take a decision based on the order passed by the Deputy Town Planner, by 11 January 2018.

8. Writ Petition is accordingly disposed of.

Prithviraj K. Chavan, J

N.M. Jamdar, J.