

IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO.1158 OF 2016.

Mr. Leticia E Dos M. Simoes,
Wife of Late Mr. Domingos
Cursino Simoes, Major of
age, Resident of Above St.
Cruz Pharmacy, Richie's
Corner, 2nd Floor, Segundo
Bairro, St. Cruz, Ilhas, Goa. Petitioner.

V/s

- 1 State of Goa, Through
its Chief Secretary,
Having office at
Secretariat, Porvorim,
Goa.
- 2 The Deputy Collector &
SDO, Mapusa Sub
Division, Mapusa-Goa.
3. The Mamlatdar of
Bardez Taluka, Mapusa-
Goa.
4. The Senior Town
Planner, Town &
Country Planning Dept,
North Goa District
Complex, Mapusa-Goa.
5. Village Panchayat of
Nerul, Through the
Secretary, Nerul
Bardez-Goa.
6. The Goa Coastal Zone
Management Authority,

The Member Secretary,
3rd Floor, Dempo
Towers, Patto, Panaji-
Goa.

7. Ruth D'Souza, Major of Age, r/o Maimen Vaddo, Nerul-Bardez, Goa.
 8. Gajanan Tari Volvoikar, Major of age, r/o Maimen Vaddo, Nerul-Bardez, Goa.
 9. Krishnanath Sakharam Shirodkar, Major of Age, r/o Maimen Vaddo, Nerul-Bardez, Goa.
 10. Suresh Tukaram Shirodkar, Major of age, r/o Maimen Vaddo, Nerul-Bardez, Goa.
 11. Dharma Kalangutkar, Major of age, r/o Maimen Vaddo, Nerul-Bardez, Goa.
 12. Devedas Kalangutkar, Major of age, r/o Maimen Vaddo, Nerul-Bardez, Goa.
- Respondents.

Shri A. Kamat, Advocate for the petitioner.
Shri S. D. Lotlikar, Advocate General with Shri S. Dhargalkar, Addl. Govt. Advocate for the respondent nos.1, 2, 3, 4 and 6.
Ms. A. Madkaikar, Advocate for the respondent no.5.
Shri A. Naik, Advocate for the respondent no.7.
Shri V. Parsekar, Advocate for the respondent nos.8 and 10.

Shri V. Amonkar, Advocate for the respondent no.9.

**Coram:-F. M. REIS,
NUTAN D. SARDESSAI, JJ.**

Date:-12th January, 2017.

ORAL JUDGMENT (Per F. M. REIS, J)

Heard Shri Shri A. Kamat, learned Advocate for the petitioner, Shri S. D. Lotlikar, learned Advocate General for the respondent nos.1, 2, 3, 4 and 6, Ms. A. Madkaikar, learned Advocate for the respondent no.5, Shri A. Naik, learned Advocate for the respondent no.7, Shri V. Parsekar, learned Advocate for the respondent nos.8 and 10, Shri V. Amonkar, learned Advocate for the respondent no.9.

2. Rule.

3. Heard forthwith with the consent of the learned Counsel appearing for the parties.

4. The learned Addl. Govt. Advocate and Advocates waive notice on behalf of the respective respondents.

5. The grievance of the petitioner is that in the property

where the petitioner claims to be a tenant of the property surveyed under Nos. 120/1 and 110/9 of village Nerul which is otherwise seriously disputed by the private respondents nos. 7 to 12, illegal constructions have been put by the private respondent in CRZ area without the requisite permissions either from the Goa Coastal Zone Management Authority("GCZMA" for short) or the Statutory Authority including the local village panchayat. Shri Kamat, learned Counsel appearing for the petitioner submits that in a tenanted property belonging to the petition, structures have mushroomed somewhere in February, 2016 whereby existing structures are extended and in some cases even new structure have been put up by the private respondents. The learned Counsel further pointed out that these activities by the private respondents are totally contrary to the statutory regulations and as such, directions are required to be issued to ensure that all such structures are immediately demolished. The learned Counsel has also brought to our notice the ad-interim order passed by this Court on 22.12.2016 whereby directions were issued to the GCZMA as well as to the local panchayat to complete the exercise of issuing a show cause notice within three months to the GCZMA and within two

months to the local village panchayat. The learned Counsel as such points out that necessary directions be issued with that regard.

6. On the other hand, the private respondents nos. 7 to 12 have pointed out that a show cause notice has already been issued by the Village Panchayat and in some cases such respondents have already filed they replied and the matters are under consideration before the local panchayat. The learned Counsel also disputes any illegal construction has been carried out by such respondents. The learned Advocate General appearing for the GCZMA/respondent no.6 further submitted that on account of change of Member Secretary the proceedings which are initiated by such respondents have not reached its logical conclusion and such proceedings shall be disposed off expeditiously.

7. We have given our thoughtful consideration to the rival contentions and we have also gone through the records. The grievance raised by the petitioner otherwise can be raised by availing an alternate remedy as provided under the Panchayat Raj Act and the Environmental Protection Act,1986

before an appropriate forum as constituted therein. Nevertheless considering that there are allegations that the authorities are not performing their statutory function and pursuant to orders of this Court, proceedings have already being initiated with that regard, we find that the question of entertaining the above Writ Petition would not at all be necessary. The private respondents have remedies in law if so advised which cannot be curtailed by keeping the petition pending in this Court specifically when rights, to the subject property of the petitioner are seriously disputed by the private respondents. In such circumstances, without going into the rival submissions and keeping all the contentions of the respective parties open, we dispose off the above petition by directing the statutory authority ie. GCZMA as well the Local panchayat to dispose off the proceedings initiated with regard to subject structures as expeditiously as possible and in any event within 6 months from today. All the contentions of both the parties on merits are left open.

8. Rule stands disposed off accordingly.

NUTAN D. SARDESSAI J.

F. M. REIS, J.