

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 18 OF 2017

Capt. Lance Irwin Lobo
Son of late Valerian Lobo
Age 64 years, married,
Resident of Capt. Lobo's River Hideaway,
Vollant, Betim, Bardez, Goa. ... Petitioner

Versus

1. The Block Development Officer,
Bardez. Mapusa- Goa.
2. Village Panchayat of Reis Magao,
Through its Secretary,
Reis Magos,
Bardez- Goa.
3. The Police Inspector,
Porvorim Police Station,
Porvorim- Goa.
4. The State of Goa,
Through Chief Secretary,
Secretariat, Porvorim,
Bardez- Goa.
5. Quinta Coqueiro Co-operative Maintenance Society,
Through its Secretary,
Quinta Coqueiro, Reis Magao,
Bardez- Goa.
6. Mr. Abhijit Almeida,
Major, resident of Quinta Coqueiro,
Reis Magos, Bardez, Goa. Respondents

Shri Nigel Da Costa Frias, Advocate for the petitioner.

Shri V. Sardesai, Additional Government Advocate for respondents
no.1, 3 and 4.

Shri J. A. Lobo, Advocate for respondents no.5 and 6.

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

Date:- 20th April, 2017.

ORAL JUDGMENT: (PER F. M. REIS,J)

Heard Shri Nigel Da Costa Frias, learned Counsel for the petitioner, Shri V. Sardesai, learned Additional Government Advocate for respondents no.1, 3 and 4 and Shri J. A. Lobo, learned Counsel for respondents no.5 and 6.

2. Rule. Heard forthwith with the consent of the learned Counsel. Learned Counsel appearing for the Respondents waives service.

3. Upon hearing the learned Counsel for the petitioner and the respondents, the exception taken by the petitioner is to the direction issued by the respondent no.1 to the extent of the directions to the police by letter dated 03/11/2015 to comply with the stop work order passed by the respondent no.1 way back in the year 2004.

4. After hearing Shri Nigel Da Costa Frias, learned Counsel for the petitioner, Shri V. Sardesai, learned Additional Government Advocate for respondents no.1, 3 and 4 and Shri J. A. Lobo, learned Counsel for respondents no.5 and 6, it clearly reveals that two suits with regard to the subject property are pending before the

learned Civil Judge, Senior Division, Mapusa. There are also orders passed in both the suits at the time of the disposal of the temporary injunction applications. Shri Nigel Da Costa Frias, learned Counsel for the petitioner has brought to our notice the consent order dated 08/04/2008 which according to the petitioner covers the subject construction whereby an order of status quo has been passed a statement has been recorded that the petitioner shall not carry out any new construction in the subject property without obtaining the requisite licenses. It has also been brought to our notice by Shri J. A. Lobo, learned Advocate for the respondents no.5 and 6 that in the meanwhile a report dated 28/02/2013 has been submitted by the Deputy Director in terms of Section 66(6) of the Panchayat Raj Act which is also confirmed by Shri V. Sardesai, learned Additional Government Advocate for the respondent no.1, 3 and 4.

5. The powers of the respondent no.1 in terms of the Panchayat Raj Act are clearly defined. The respondent it appears that in exercise thereof has already made a report to the Deputy Director in terms of Section 66(6) of the Panchayat Raj Act. The authorities would now have to proceed with such proceedings in accordance with law. In such circumstances, the question of directions to the police at the instance of the respondent no.1 is not at all justified. It is further made clear that the interim orders which are operating against the petitioner as well as the stop work order issued by the

respondent No.1 in respect of the subject construction shall continue to operate in accordance with law. In view of the above the petition succeeds partly to the limited extent, of the letter addressed by the respondent no.1 dated 03/11/2015. Needless to say that all the contentions of the parties in all the proceedings are left open and the concerned authorities shall proceed to decide such pending proceeding as expeditiously as possible in pursuance of the report at Exhibit R-6 (colly) at page 139 of the petition in accordance with law. The impugned order dated 03/11/2015 to the limited extent that it directs the police to take action stands quashed and set aside. In case of any breach of any order in operation the respondents no.5 and 6 are at liberty to take action in accordance with law.

6. Rule stands disposed off in the above terms.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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