

IN THE HIGH COURT OF BOMBAY AT GOA***WRIT PETITION NO. 76 OF 2018***

Minguel Joao Martins Petitioner
Versus
State of Goa, Thr. Chief Secretary
and 4 Ors. Respondents.

Mr. Chaitanya Padgaonkar, Advocate for the Petitioner.
Mr. D. Lawande, Advocate General with Mr. P. Dangui, Government
Advocate for Respondent Nos.2.
Mr. D. Lawande, Advocate General with Mr. Rajesh Shivilkar,
Additional Government Advocate for Respondent No.1, 3 and 5.
Mr. Pranav Kamat, Advocate for Respondent No.4.
Mr. Vijay Palekar, Advocate for Respondent No.6.
Mr. M. Fondekar, Advocate for Respondent No.7.
Mr. P.A. Kholkar, Advocate for Respondent Nos.9 and 10.
Mr. C.A. Fereira and Mr. S. Gomes Pereira, Advocate for Respondent
No.11.
Ms. Ankita Nagvekar, Advocate for Respondent No.12.

***Coram : N.M. Jamdar &
Nutan D. Sardesai, JJ.***

Date : 1 October 2018.

ORAL ORDER:

The Petitioner is before this Court for a direction to the Deputy Director of the Panchayat, North-Goa Planning and Development Authorities and the Village Panchayat to take action in respect of alleged unauthorised construction by the private Respondent.

2. Since the Petitioner had raised various factual questions we had directed that one Officer should collect all the data from the parties so that further adjudication will be facilitated. A grievance was made by Respondent No.12 that the Petitioner has himself carried out unauthorised construction and there is a family dispute. We had therefore directed to the officer to examine the documents in respect of the Petitioner as well. Accordingly on 10 July 2018 following order as passed:

“P.C.:

It is the case of the Petitioner that Respondent nos.6 to 12 have carried out construction without there being any permission. An affidavit is tendered on behalf of Respondent no.12, wherein it is stated that the Village Panchayat has already examined the case of Respondent nos.12 and has found that there is no illegality and further more, there is a family dispute between Respondent no.12 and the Petitioner, his paternal uncle. Respondent no.11 has filed reply. Time is also sought on behalf of the other Respondents to file reply.

2. We direct the Director of Panchayat to nominate an responsible Officer, who will examine the permissions in respect of Respondent nos.6 to 12 and file an affidavit as regards whether Respondent nos.6 to 12 have their necessary permissions with them. It is open to the Officer so nominated to call Respondent nos.6 to 12 with the documents in their possession and the copy thereof and annex the same to the affidavit. In view of the grievance of the Respondent no.12, the Petitioner will also be called upon to show the permission/licence in respect of structure put up by the Petitioner. Said exercise be completed before the next date and since it will take some, stand over to 13 August 2018.”

3. Pursuant to the order, the Additional Director of Panchayat has compiled the documents submitted by the parties and placed them on record by an affidavit dated 21 August 2018.

4. Since these documents are now available and submitted by the parties before the Additional Director, the concerned Authorities now can take decision in respect of the legality of the structures in question of the Respondents as well as the Petitioner based upon the material they had produced. This decision making at the first instance will also require adjudication on the various factual aspects and that has to be done by the authorities. We do not intend to undertake the task in this petition.

5. Accordingly, Respondent Nos.2, 3 and 4 are directed to commence the proceedings for determination of the legality of the construction of the private Respondents as well as the Petitioner based upon the documents so produced by the Respondents and the Petitioner before the Additional Directors of Panchayat, and take decision as per law. A copy of the affidavit filed by the Director of Panchayat alongwith the documents is already a part of the records and the Respondent Nos.2,3 and 4 being the parties to this petition are already in possession of the affidavit and documents. The Authorities will conclude their respective proceedings within a period

of three months from today, as per law and on their own merits. No further orders are therefore required to be passed.

6. The Writ Petition stands disposed of in the above terms.

Nutan D. Sardesai, J.

N.M. Jamdar, J.