

IN THE HIGH COURT OF BOMBAY AT GOA.

CONTEMPT PETITION NO.43 OF 2017
IN
PIL WRIT PETITION NO.4 OF 2007.

Aires Rodrigues ... Petitioner
Versus
Premdas Karapurkar & Ors. Respondents

Mr. Aires Rodrigues, Petitioner in person.
Mr. A. D. Bhobe, Advocate for Respondent No.1.
Mr. D. Lawande, Advocate General with Mr. P. Faldessai, Additional
Government Advocate for Respondent Nos.3, 4 and 5.

WITH
MCA NO.406 OF 2018
IN
CONTEMPT PETITION NO.43 OF 2017.

Mr. Vivek Rodrigues, Advocate for the Applicant.
Mr. A. D. Bhobe, Advocate for Respondent No.1.
Mr. D. Lawande, Advocate General with Mr. P. Faldessai, Additional
Government Advocate for Respondent Nos.3, 4 and 5.

WITH
CONTEMPT PETITION NO.31 OF 2010
IN

SUO MOTU WRIT PETITION NO.2 OF 2007

Ms. Nigel Costa Frias and Ms. M. Correia, Advocates for the
Petitioner.

**WITH
PIL WRIT PETITION NO.4 OF 2007.**

Mr. A. D. Bhobe, Advocate for Respondent No.1.

**WITH
PIL WRIT PETITION NO.20 OF 2017**

Ms. A. Prabhudessai, Addl. Government Advocate for Respondent No.1.

**WITH
SUO MOTU WRIT PETITION NO.2 OF 2007**

Ms. A. Gode, Advocate for the Petitioner.

Mr. A. D. Bhobe, Advocate for Respondent Nos. 11 & 15.

Mr. Z. D'Souza, Advocate for Respondent Nos.33, 35 to 37.

Mr. S. D. Lotlikar, Senior Advocate with Mr. C. Padgaonkar, Advocate for the Respondent no.46.

Mr. S. D. Padiyar, Advocate for the Respondent nos.8, 9, 12,16,17,19,47.

**WITH
WRIT PETITION NO.721 OF 2017**

Mr. V. Rodrigues, Advocate for the Petitioner.

Mr. P. Dangui, Government Advocate for Respondent Nos.1, 2, 4 to 6.

Mr. C. A. Ferreira, Advocate for Respondent No.3.

Mr. Sandesh Padiyar, Advocate for Respondent No.10.

Mr. M. Amonkar, Advocate for the newly added Respondents.

**WITH
WRIT PETITION NO.935 OF 2017**

Mr. A. D. Bhobe, Advocate for the Petitioner.

Mr. Arun A. S. Talaulikar, Addl. Government Advocate for Respondent No.3.

WITH
WRIT PETITION NO.546 OF 2018.

Ms. P. Kaur, Advocate for the Petitioner.

Mr. A. D. Bhobe, Advocate for the Respondent no.2.

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

Date : 6 June 2018.

P.C. :

Learned Advocate General submits that the site for depositing construction debris have been notified and on various places the same have been deposited. He states that debris has also been used at some places as a filling material and necessary directions have been issued to the Panchayat and Municipal Council. The learned Advocate General however states that in some places such as at Merces, even after the construction debris have been removed and it has been deposited by some unknown persons overnight. He states that the assistance of the police machinery will be taken to ascertain the cause of such occurrences and deterrent action would be taken. He states that the detailed affidavit in this regard will be filed on the next date.

2. Application No.406/2018 and Writ Petition No.546 of 2018 have been filed by the residents of Mercas village being aggrieved by the refusal by the Mercas Panchayat to process their application for construction. The Mercas Panchayat has not processed their application in view of an ad-interim order passed in this group of petitions. The ad-interim order is passed in view of chronic problem of construction rubble in Mercas as stated above which continues as on date.

3. The Petitioner in Writ Petition No.546 of 2018 has filed an affidavit of the Chief Engineer Hitendra Bhat who is engaged by the Petitioner for carrying out construction. It is stated on oath by the Engineer, which is reiterated by the Petitioner, that the construction will be carried out on a vacant plot and there is no existing constructions and that there will be no construction debris. He states that soil generated due to excavation will be used for filling the plinth for the construction.

4. In the MCA No. 406 of 2018, an affidavit has been filed by the registered contractor engaged by the Applicants. It is stated on oath by registered contractor at paragraphs 3 to 8 as under:-

- “3 I say that the old ancestral house has a plinth area of 91 m², whereas the new construction has a plinth area of 125.96m².*
- 4. I say that the major portion upto 85% of the old ancestral house is made of mud walls and when the same is demolished, most of the material is mud and only the plaster and tiles along with few supporting laterite stones are debris.*
- 5. I say that upon demolition of the old house the debris to the extent of 68.50 m³ will be reused towards filling up the plinth of the new construction.*
- 6. I say that 38m³ would be used for back filling the footing pits and raising the surrounding levels in the plot.*
- 7. I say that the wooden rafters and Mangalore tiles are in fact used for the new building as the said wood is well seasoned teak wood, which is very expensive.*
- 8 I say that the other material of false ceiling, grills and trusses would be sold to scrap dealers.”*

The learned Counsel for the Applicants in application no.406 of 2018 states that the Authority appointed to oversee for disposal of debris has also granted the permission with certain conditions.

5. In view of these affidavits filed, the Mercas Panchayat to process the applications for construction of the Applicant in Civil

Application No. 406/2018 and the Petitioner in Writ Petition No. 546/2018.

6. It is made clear that the applications will be processed as per law and the undertakings which have been given by the Applicant/ Petitioner as referred to above, shall be abided by them. If it is noticed that they have dishonoured the undertaking so given and they have contributed to the cause of problem of construction debris, the permission granted is liable to be revoked and no equities will be claimed by the Applicant/Petitioner. With these directions, Writ Petition No.546/2018 and MCA No.406/2018 stand disposed of.

7. At the request of State to file additional affidavit as above, the hearing of the Suo Motu Writ Petition is adjourned to 13 June 2018.

Prithviraj K. Chavan, J.

N.M. Jamdar, J.