

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 631 OF 2017**

Shri Harish S. Naik, C/o Manohar Sada Naik,
Age 69 years, r/o H. No. 402, St. Inez Alto, Dr.
Gama Pinto Road, Panaji-Goa. Petitioner

Versus

1. Goa Town and Country Planning Board,
Through its Member Secretary, c/o Chief
Town Planner, having office at Dempo
Towers, EDC Complex, Patto, Panaji-Goa.
2. North Goa Planning and Development
Authority, Through its Member
Secretary, having office at Mala, Panaji-
Goa.
3. Shri Gurudas Tari, major in age, Residing
at H. No. 212, C9, Near Police Quarters,
Altinho, Panaji, Goa.
4. Mr. Govind Usapkar, major in age, r/o H.
No. 211, Near Police Quarters, Altinho,
Panaji, Goa.
5. Mr. Sanjay Usapkar, major in age, r/o H.
No. 211, Near Police Quarters, Altinho,
Panaji, Goa.
6. Mr. Crishnanato Ussaopacar alias
Crishnanata Ussaoppcar, major, r/o H.
No. 211, Near Police Quarters, Altinho,
Panaji, Goa. Respondents

Shri Pranay Kamat, Advocate for the Petitioner.

Shri Hanumant D. Naik, Advocate for the Respondent No. 2.

Shri Vivek Rodrigues, Advocate for the Respondent Nos. 4, 5
and 6.

CORAM:- C.V. BHADANG, J.

DATE:- 21st September 2018.

ORAL JUDGMENT:

Rule made returnable forthwith. The learned Counsel for the respondents, waive service. Heard finally by consent of parties.

2. On the basis of a complaint lodged by the petitioner, action was taken by the Corporation of City of Panaji (Corporation, for short), for demolition of the subject structure constructed by the respondent nos. 3 to 6. The respondent nos. 3 to 6 approached the Appellate Authority by filing two separate appeals, which were dismissed. As the Corporation was not taking steps for implementing the order, the petitioner filed Writ Petition No. 559/2014, for a direction to the Corporation to execute the order of demolition. It is a matter of record that the said writ petition has been admitted by the Division Bench of this Court on 08.07.2015 and is pending.

3. In the meantime, the respondent nos. 3 to 6 approached the North Goa Planning and Development Authority (NGPDA, for short), for regularisation of the subject structure, which application was rejected by the NGPDA on 24.10.2013. Feeling aggrieved, the respondent nos. 3 to 6 approached the Town and Country Planning Board (Board, for short). By the impugned orders dated 02.11.2016 and 25.01.2018, the Board

has decided to refer the matter to the NGPDA for its reconsideration. The Board has stipulated that the NGPDA may consider and take appropriate decision on merits. These two orders, are subject matter of challenge in this petition.

4. I have heard Shri Kamat, the learned Counsel for the petitioner, Shri Naik, the learned Counsel for the respondent no. 2 and Shri Rodrigues, the learned Counsel for the respondent nos. 4, 5 and 6. Perused record.

5. It is submitted by Shri Kamat, the learned Counsel for the petitioner that the Board was not competent to refer the matter back to NGPDA and the impugned orders, referring the matter back to NGPDA are illegal and are also passed without hearing the petitioner, who was the original complainant. He points out that the petitioner was heard by the NGPDA, when the application for regularisation was initially rejected.

6. The learned Counsel for the respondents have supported the impugned orders. It is submitted that all that the Board has done is referred the matter back to the NGPDA, for reconsideration of the matter in accordance with Town and Country Planning Act.

7. On hearing the learned Counsel for the parties, I do not find that any case for interference is made out. All that the Board has done, as rightly submitted by the learned Counsel for the respondents, is that it has referred the matter back to NGPDA for taking decision on the application for regularisation. The impugned orders cannot be said to be illegal, nor they result into any manifest injustice on the petitioner. Thus, I decline to entertain the petition. It is evident that the NGPDA will have to consider the application on its own merits and in accordance with the provisions of the Town and Country Planning Act and any other legal provisions, as may be applicable. It would be open to the petitioner to approach the NGPDA, for granting him an opportunity of hearing, if so advised. If such an application is filed, the NGPDA shall decide the application for grant of opportunity of hearing, on its own merits and in accordance with law.

The petition is disposed of in the aforesaid terms, with no order as to costs.

C. V. BHADANG, J.

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