

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 683 OF 2018

Ruth Beatriz de Souza Henriques. Petitioner.

Versus

Mormugao Municipal Council,

& others. Respondents.

Mr. Ajit R. Kantak, with Ms. Reshma A. Kantak, Advocate for the
Petitioner.

Mr. Rajesh Shivokar, Additional Govt. Advocate for Respondent
No.3.

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

Date : 2 July 2018.

P.C.:

By this Petition, the Petitioner has challenged the notice issued by the Municipal Council, dated 8 June 2018 under Section 190 of Goa Municipalities Act. The notice which is pasted on the premises, stated that the premises are in dilapidated condition and requires immediate steps to be taken to carry out the repairs. The notice has been addressed to the Chairman, House of Salgaonkar, Opp. Geetanjali Building, Vasco-da-Gama, Goa.

2. The learned Counsel for the Petitioner submitted that the notice has been issued only to enable Respondent No.2-tenant of

the building to carry out the repairs which right the tenant does not have. The learned Counsel submitted that, therefore, such a notice pasted on the door granting leave to the tenant with whom a dispute is pending, is an illegal exercise of powers.

3. The impugned notice *per se* only states that repairs be carried out to the dilapidated structure. Such notices are given by Municipalities, as regulatory Authorities, so as to avoid any untoward incident which may occur by keeping the premises in dilapidated condition. The photographs annexed to the Petition show that the structure is in dilapidated condition. Therefore, it cannot be said that the notice issued is illegal or beyond the powers of the Authority.

4. As far as contention that the Respondent No.2, stated to be the tenant or unauthorisedly carrying out the repairs taking advantage of the notice is concerned, a suit is pending between the Petitioner and the Respondent No.2 and the Petitioner had also sought for an injunction to restrain the Respondent No.2 from carrying out repairs, which injunction application has been rejected. The Petitioner has filed an appeal to the District Court from such rejection. Therefore, it is in this Court it will be decided as to the locus of Respondent No.2 to carry out the repairs. Since this issue is already under consideration of the Civil Court, it is not necessary to interfere in writ jurisdiction. The contentions of the parties will be

no doubt considered on its own merits by the learned District Judge.

5. The Petition is, accordingly, rejected.

Prithviraj K. Chavan, J.

N.M. Jamdar, J.