

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.984 OF 2017

Emerico Afonso

... Petitioner

Versus

Greater Panaji Planning & Development
Authority & Anr.

.... Respondents

Mr. Devidas J. Pangam, Advocate for the Petitioner.

Mr. K. Aroskar, Advocate for Respondent No.1.

Mr. P. A. Kamat, Advocate for Respondent No.2.

Mr. Vibhav R. Amonkar, Advocate for Respondent No.3.

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

Date : 24 September 2018.

P.C. :

Heard the learned counsel for the parties.

2. The Petitioner has sought the following reliefs in this petition.

“(A) This Hon'ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction, commanding the Respondents to take action against the said illegal construction carried out in Survey No.91/3 of Village Taleigao, Tiswadi Taluka, Goa, in a time bound manner in accordance with law;

(B) Pending the hearing and final disposal of this petition, this Hon'ble Court be pleased to direct the Respondents to take action against the said illegal construction carried out in Survey No.91/3 of Village Taleigao, Tiswadi Taluka, Goa, in a time bound manner in accordance with law forthwith;

(C) For ad-interim ex-parte relief in terms of prayer clause (B) above.”

3. The learned counsel for the Respondent No.1- Greater Panaji Planning and Development Authority, has placed on record a show cause notice issued to the Respondent No.3. The show cause notice is issued on 1 March 2018. The learned counsel for the Respondent No.1- Planning Authority and the Respondent No.3 state that so far the proceedings pursuant to the show cause notice have not been concluded.

4. The learned counsel for the Petitioner submits that in the show cause notice only it is stated the repairs to the existing house and

in fact there was no such house existing and what is sought to be done is an entirely a new construction. The learned counsel for the Petitioner relies on the information given by the Village Panchayat under the Right to Information Act.

5. The issues raised by the Petitioner will require adjudication of the factual position. The show cause notice has already been issued by the Planning Authority calling upon the Respondent No.3 and stating that the Respondent No.3 has carried out the illegal development. While describing the illegal development, the Respondent No.1 has specified it as repairs to the existing house. Since the Planning Authority in any way is looking into the legality of the structure of the Respondent No.3, it will be appropriate that it deals with the issue raised by the Petitioner in this petition namely, there was no structure in existence and entirely a new structure has been put up.

6. Since the Respondent No.3 is represented before us in this petition, it is not necessary to issue a fresh show cause notice to the Respondent No.3 on the above aspect. It will be open to the Respondent No.3 to submit his reply to the show cause notice and even to the above aspect of the matter. The Respondent No.1 will

accordingly adjudicate upon both the aspects of the matter as pointed out, on their own merits and take necessary action as per law.

7. It is open to the Respondent No.1 -Planning Authority to permit the Petitioner to give his representation. The exercise be carried out within a period of three months from today.

8. With the above directions, the writ petition is disposed of.

Prithviraj K. Chavan, J.

N.M. Jamdar, J.