

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.971 OF 2017

Jose Roque Pinto
resident of House No.E/90,
A.V. Lourenco Road, Margao,
Salcete, Goa.

..... Petitioner.

Versus.

1. The State of Goa,
through the Chief Secretary,
2. South Goa Planning and Development
Authority, through its Chairman,
having Office at Margao, Goa.
3. Margao Municipal Council,
Through the Chief Officer,
4. Jose Vivek Dias,
Resident of House No.91,
A.V. Lourenco Raod,
Margao, Salcete, Goa.
5. Jose Luciano Miquelinho
Da Piedade Dias, alias Jose L.M. P. Dias,
Margao Municipal Council,
6. Babita Angle Prabhudessai,
Chairperson,
Margao, Municipal Council.

..... Respondents.

Mr. S. D. Lotlikar, Senior Advocate with Ms. M. Chodnekar, Advocate for the Petitioner.

Mr. Rajesh Shivolkar, Additional Govt. Advocate for Respondent No.1.

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

Mr. Ryan Menezes, Advocate for Respondents No. 4 & 5.

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

Date : 7 March 2018.

ORAL JUDGMENT : (Per N.M. Jamdar, J.)

Rule. Rule made returnable forthwith. The respondents waive service. Taken up for disposal by consent.

2. The Petitioner has filed this Writ Petition challenging the grant of Occupancy Certificate dated 28 July 2017 issued in favour of Respondent No.4.

3. We have heard Mr. S. D. Lotlikar, learned Senior Advocate for the Petitioner, Mr. Rajesh Shivolkar, learned Additional Govt. Advocate for Respondent No.1, Mr. C. A. Coutinho, learned Counsel for Respondent No.3 and Mr. Ryan Menezes, learned Counsel for Respondents No. 4 & 5.

4. It appears that there has been earlier round of litigation between the parties and the Municipal Council had earlier decided not to grant the Occupancy Certificate and subsequently the Occupancy Certificate has been granted. In the Petition, a grievance is made by the Petitioner that ignoring the notes put up by the Engineer, merely at the behest of the Respondent No.6, the Occupancy Certificate has been granted. It is the contention of the learned Senior Advocate for the Petitioner that it is only because of the interest taken by the Respondent No.6 that the Occupancy Certificate has been granted in favour of the Respondents No.4 and 5. The learned Counsel for the Respondents No.4 and 5 disputes this position and states that the Occupancy Certificate has been granted legally and in a proper manner.

5. An affidavit filed by the Chairperson of the Municipal Council, who has been joined in personal capacity, is tendered today, which we have taken on record. In the affidavit, it is denied by Respondent No.6 that the Occupancy Certificate has been issued in favour of Respondent No.4 at her instance. It is also asserted by Respondent No.6 that she is not involved in the process of grant of an Occupancy Certificate and it is in the domain of the Chief

Officer. The learned Counsel for Respondent No.6 also restates that Respondent No.6 has nothing to do with the work of grant of Occupancy Certificate. If that is the position, then it is not necessary for the Chief Officer to place the file, at least of this case, before Respondent No.6-Chairperson for any kind of opinion, as it is entirely within the domain of the Chief Officer to take rededcision. We are of the opinion, to dispel the doubt, and as has been accepted by Respondent No.6, that Respondent No.6 will not process the file of Respondents No.4 and 5 in any manner whatsoever.

6. The learned Senior Advocate submits that a comprehensive representation will be filed before the Chief Officer, within a period of two weeks. We direct the Chief Officer to consider the same on merits, without referring to the earlier correspondence/orders, etc., after calling for a report from the concerned Engineer afresh. It is open to the Chief Officer to give opportunity to both, the Petitioner and Respondents No. 4 and 5 to putforth their views on this aspect.

7. The Chief Officer, after the representation is received within a period of two weeks as stated, will take a decision thereafter within a period of eight weeks. The Chief Officer, while disposing of

the representation will pass an order as per law. In view of the peculiar facts and circumstances of this case, the order will be a reasoned order giving all particulars and specific references.

10. The Writ Petition is accordingly disposed of. Rule is made absolute in above terms. No order as to costs.

Prithviraj K. Chavan, J.

N.M. Jamdar, J.