

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 144 OF 2019

IN

WRIT PETITION NO. 988 OF 2016

SUBODH SHRIDHAR DESAI AND 300
ORS.,

... Applicants

Versus

STATE OF GOA, THR. ITS CHIEF
SECRETARY AND 3 ORS.,

... Respondents

Mr. Shashikant Narayan Joshi and Ms. S. Rawool, Advocates for
the applicants.

Mr. D.J. Pangam, Advocate General with Mr. Deep Shirodkar,
Additional Government Advocate for the respondents No.1 and
4.

Mr. Mahesh Amonkar, Central Government Standing Counsel
for the respondents No.2 and 3.

Mr. A. Shirodkar, Advocate for the respondent No.5.

Coram:- M. S. SONAK &
NUTAN D. SARDESSAI, JJ.

Date:- 26th August, 2019

P.C.:

This Civil Application seeks the following directions :

"7a. Direct the respondents to include the works pertaining to
Compound Wall, Internal Records & Electrical work, Sewage
and drainage in the works undertaken pursuant to the Orders
passed by this Hon'ble Court."

2. By our previous order dated 14/03/2018, we had permitted

the respondent No.3 to carry out the repairs as suggested in the report annexed to the affidavit dated 14/03/2018 under the supervision of the Officer appointed by Public Works Department. However, we had not permitted the respondent No.3 to carry out the work of the construction of the compound wall, since, there was a dispute pending between the respondents No.3 and 5 to 13.

3. Insofar as the works pertaining to internal roads, electric work, sewage and drainage works are concerned, according to us, there can be no difficulty in permitting the respondent No.3 to carry out the same as long as, these works, including in particular, the work of internal roads does not in any manner encroach upon the property allegedly of the respondents No.5 to 13 or otherwise alter the status quo. Accordingly, we permit these works.

4. Insofar as the construction of the compound wall is concerned, it is necessary to note that the respondents No.5 to 13 had in fact filed a suit against the respondent No.3 which has been decreed and in which the eviction of the respondent No.3 is ordered. The respondent No.3 has however instituted an appeal before this Court which has been admitted and the stay has been granted to the execution of the decree subject to the condition that the respondent No.3 shall not change the status quo in the

area nor induct any third party. In fact, the respondent No.3 had taken out a civil application seeking for a variation of the order, this application was directed to be taken up at the final disposal of the appeal. In short, this means that even such an application has not been granted.

5. The applicants in the present petition, cannot, seek to overcome the effect of the orders made by this Court in the First Appeal by seeking directions for construction of the compound wall and altering the status quo which is operational. Accordingly, the Civil Application, to the extent of seeking permission for the construction of the compound wall is not granted.

6. Mr. Amonkar, learned Central Government Standing Counsel for the respondent No.3 and Mr. D.J. Pangam, learned Advocate General for the State of Goa state that they will seek early disposal of First Appeal No.28/2006 and other connected appeal.

7. Accordingly, this Civil Application is disposed in the aforesaid terms.

NUTAN D. SARDESSAI, J.

M. S. SONAK, J.