

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 202 OF 2018

Rudraji Malu Naik and another ... Petitioners

Versus

The State of Goa & 4 Ors. Respondents

Mr. Somnath B.Karpe, Advocate for the Petitioners.

Ms.Neha Kholkar, Additional Government Advocate for Respondent Nos.1, 2 and 3.

Mr. Gaurish N. Agni with Mr. Eeshan Usapkar, Advocates for respondent no.5.

***Coram : M.S. Sonak &
Prithviraj K. Chavan, JJ.***

Date : 22 January 2019.

P.C. :

Heard Mr. Karpe, learned counsel for the petitioners, Mr. Neha Kholkar, leaned Additional Government Advocate for respondent nos.1, 2 and 3 and Mr. Agni, learned counsel for respondent no.5.

2. The main relief in this petition is to issue Writ of Mandamus directing respondent nos.1 to 4 to act in accordance with

law and to carry out demolition of illegal shed constructed in the property bearing no.486/1 by the respondent no.5.

3. It was the case of the petitioners that Panchayat had already issued a demolition order dated 27.11.2017 but the same was not being executed. During the pendency of the present petition, respondent no.5 instituted Panchayat Appeal No.110/2017 before the Additional Director of Panchayats under Section 201-B of Goa Panchayat Raj Act, in order to question of demolition order dated 27.11.2017. By order dated 30.5.2018, the Additional Director of Panchayats dismissed this appeal.

4. Respondent no.5 thereupon instituted Civil Revision Application No.43/2018 before the Revisional Authority. By judgment and order dated 28.12.2018, the Revisional Authority has set aside the order dated 30.5.2018 made by the Additional Director of Panchayats. This means that as on date, there is no demolition order in existence as against the suit structure.

5. Mr. Karpe, learned counsel for the petitioners states that the petitioners are in process of the challenging the judgment and order dated 28.12.2018. He states that this petition may be kept

pending because otherwise, it is unlikely that any action will be taken against the illegal construction put up by respondent no.5. Mr. Agni, learned counsel for respondent no.5 submits that in view of the judgment and order dated 28.12.2018, it cannot be said that respondent no.5 has put any illegal construction.

6. Taking into consideration that the judgment and order dated 28.12.2018, at least for the present, stands, there is no point in keeping this petition pending. However, it is made clear that if ultimately, the demolition order dated 27.11.2017 made by Panchayat revives then, Panchayat as well all concerned parties will not delay in execution of the same. In fact, such demolition order, if, the same revives, will be executed within a period of six weeks from the date of such revival. It is further made clear that this direction is ultimately without prejudice to the rights of respondent no.5 in this matter.

7. This petition is disposed of in the aforesaid terms. There shall be no order as to costs.

Prithviraj K. Chavan, J.

M.S.Sonak, J.