

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.320 OF 2019**

1. CMDE, Shri Surinder Pal Singh
Bhatti (Retd.),
s/o. Mr. Kehar Singh Bhatti,
57 years, married,
retired and his spouse;

2. Mrs. Manjit Bhatti,
daughter of Sham Singh Chauhan,
aged 57 years, housewife/service;

both residents of House no.40/9,
flat no.FF1, Dreamz Plaza,
Jairam Nagar, Dabolim, Goa.

.... Petitioners

V/s.

1. State of Goa,
through Chief Secretary,
having Office at Secretariat,
Porvorim, Goa.

2. Village Panchayat of Chicalim,
through Secretary,
Chicalim, Mormugao, Goa.

3. Director of Panchayats,
Directorate of Panchayats,
Junta House, Panaji-Goa.

4. The Director of Vigilance,

Directorate of Vigilance,
Serra Building,
Near All India Radio,
Altinho, Panaji-Goa.

5. The Police Inspector,
Vasco Police Station,
Vasco-da-Gama, Goa.

6. Mr. Tarvinder Singh Pandori,
s/o. late Resham Singh Pandori,
aged 48 years, married,
businessman and his spouse;

7. Mrs. Gurmeet Kaur Pandori,
aged 44 years, working;

both above named residents of
Dreamz Seaview, 126/1,
Ocean Park, Jairam Nagar,
Dabolim – Goa.

8. The Member Secretary,
Mormugao Planning and Development
Authority, Commerce Centre,
IInd Floor, Vasco-da-Gama.

9. Block Development Officer,
Mormougao, Goa.

.... Respondents

Mr. Preetam Talaulikar, Advocate for the Petitioners.

Ms. Priyanka Kamat, Additional Government Advocate for the
Respondents no.1, 3, 4, 5 and 9.

Mr. Zeller De Sousa, Advocate for the Respondent no.2.

Mr. Ethelwad O. Mendes, Advocate for the Respondents no.6 and 7.

Mr. Sushant Y. Korgaonkar, Advocate for the Respondent no.8.

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

Date : 13th August, 2019.

Oral Judgment: (Per M.S. Sonak, J.)

Mr. Ethelwad Mendes, the learned Counsel for the respondents no.6 and 7 seeks leave to file an Affidavit of the respondent no.6 to clarify the import of certain additional documents filed along with the Affidavit-in-Rejoinder.

2. Heard Mr. P. Talaulikar, the learned Counsel for the petitioners. Ms. Priyanka Kamat, the learned Additional Government Advocate for the respondents no.1, 3, 4, 5 and 9. Mr. Zeller De Sousa, the learned Counsel for the respondent no.2. Mr. Ethelwad O. Mendes, the learned Counsel for the respondents no.6 and 7 and Mr. Sushant Y. Korgaonkar, the learned Counsel for the respondent no.8.

3. Rule. Rule is made returnable with the consent and at

the request of the learned Counsel for the parties.

4. Mr. P. Talaulikar, the learned Counsel for the petitioners points out that the main challenges in this petition are the two fold:

a) To the Rectification Certificate dated 17.3.2017 issued by the Secretary, Village Panchayat of Chicalim, by which the name of the petitioner appearing in the Occupancy Certificate dated 30.12.2014, as the owner of the premises has been deleted and substantiated with the name of the respondent no.6 and one Resham Singh.

b) The attempted changes that are sought to be effected to the petitioner's water connection and electricity connection with the basis of the Rectification Certificate dated 17.3.2017.

5. Mr. P. Talaulikar, the learned Counsel for the petitioners submits that the Occupancy Certificate issued by the Panchayat after due verification and inspection could not have been changed by the Panchayat to the detriment of the petitioners without compliance with due principles of natural justice and fair play. Mr. P. Talaulikar submits that in any case on the basis of such Rectification Certificate,

the authorities were not at all entitled to effect any changes in so far as documentation or actual supply of electricity and water supply to the premises occupied by the petitioner. He therefore submits that relief is due to the petitioner on both these counts.

6. Mr. Ethelwad Mendes, the learned Counsel for the respondents no.6 and 7 points out that the owner of the building in which the said premises are situated is the respondent no.6. He submits that there was an obvious error in indicating the name of the petitioner in Occupancy Certificate dated 30.12.2014 and therefore, there was nothing wrong in the Panchayat making necessary corrections. He submits that already civil suits are pending between parties in which issues of ownership etc. will be trashed out.

7. Without prejudice, Mr. Mendes, the learned Counsel points out that water connection/meter connection is in the name of the respondent no.6 in so far as the entire building is concerned. He submits that it is on the basis of the this water connection/meter connection that all the occupants of the building are being supplied water. He submits that this includes the petitioner as well. He submits that the Rectification Certificate dated 17.3.2017 will therefore have no impact on the water supply to the premises of the petitioner in the said building.

8. Mr. Ethelwad O. Mendes, the learned Counsel for the respondents no.6 and 7 also points out that the petitioner on the basis of the Occupancy Certificate dated 30.12.2014 which was erroneously obtained had secured an electricity meter, on the basis of which the bills were required to be paid by the respondent no.6. He submits that there was no requirement as such, but it was the respondent no.6, who was paying the electricity charges since the bill required him to do so. He submits that now the electricity meter as well as the bill is in the name of the petitioner and therefore no grievance can be made on this aspect as well.

9. He therefore submits that there is really no issue of supply of electricity or water supply to the premises of the petitioner's premises.

10. Mr. P. Talaulikar points out that post the Certificate dated 17.3.2017, the Electricity Department has served the Show Cause Notice, requiring the petitioner to show cause as to why the electricity meter should now not be in the name of the respondent no.6. He therefore, submits that it is necessary that some relief is granted to the petitioner on this score.

11. Insofar as water supply and electricity connection is

concerned, according to us there is no really serious issue in view of the statements and submissions made by Mr. Ethelwad Mendes, the learned Counsel for the respondent no.6. Presently the water is being supplied to the building of which the petitioner is the occupant through the water connection in the name of the respondent no.6. On the basis of the Rectification Certificate dated 17.3.2017, there is no reason for this arrangement to be discontinued. In fact, Mr. Mendes, the learned Counsel for the respondent no.6 states that such arrangement will not be discontinued unless of course Society/Association is formed and the water connection is transferred in the name of such Society or Association. Therefore, the issue in relation of water connection stands substantially redressed.

12. So far as the electricity connection is concerned, we see no reason as to why there should be any changes in the electricity meter or the power supply to the petitioner, based on the Rectification Certificate.

13. Ms. Priyanka Kamat, the learned Additional Government Advocate states that there will be no changes effected to the electricity meter based upon the Rectification Certificate. This again, redresses substantially the issue regarding to electricity meter and the power supply to the petitioners' building.

14. So far as the rectification to the Occupancy Certificate is concerned, in the peculiar facts and circumstances of the case, we are not inclined to interfere with the Rectification Certificate. The Panchayats while issuing the Occupancy Certificate are merely concerned with the issue of the premises/the building being constructed as per the building plans. At least prima facie it cannot be said that the petitioners by the virtue of the document executed by the petitioners have become the owners of the premises and therefore are entitled to have the Occupancy Certificate in his own name. The Occupancy Certificate is per se is not any document of title. Taking into consideration all these facts, we do not feel, that this is a fit case to interfere with the Rectification Certificate on the sole ground that the petitioner was not afforded any hearing before the rectification was carried out. Besides, as noted above, based upon the Rectification Certificate, it is not as if, the petitioners right to receive water supply or electricity supply is being seriously interfered.

15. For the aforesaid reasons we make the Rule partly absolute in the aforesaid terms. We reject the petitioners challenge to the Rectification Certificate per se. However, we, direct that on the basis of the Rectification Certificate there is no question of any interference with the supply of water or electricity to the petitioner as indicated earlier. There shall be no order as to costs.

16. We clarify that nothing in this order need influence the Civil Court while deciding the Civil Suit between the parties. Accordingly, all contentions of the parties on the issues raised in the suit are left expressly open.

NUTAN D. SARDESSAI, J. M. S. SONAK, J.

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