

IN THE HIGH COURT OF BOMBAY AT GOA***PIL WRIT PETITION NO. 20 OF 2018***

Kundan Kerkar ... Petitioner

Versus

State of Goa & Ors. Respondents

Mr. Fonseca Clayton Anthony, Advocate for the Petitioner.

Mr. Rajesh Shivolkar, Additional Government Advocate for respondent nos.1 to 3.

Mr. P. Dangui, Government Advocate for Respondent no.2.

Mr. Rohit Shirodkar, Advocate for respondent no.4.

Mr. Amey Kakodkar, Advocate for respondent no.5.

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

Date : 23 January 2019.

P.C. :

Leave is granted to amend paragraph 4 of the petition so that there is consistency between paragraph 4 of the petition and paragraph 4 of the affidavit filed in support of the petition.

2. Amendment to be carried out forthwith.

3. Copies of the amended petition to be served upon the respondents.

4. The petitioner seems to have a grievance against construction/development activities undertaken by respondent no.5. It is the case of the petitioner that the construction/development activities undertaken by respondent no.5 are not in accordance with the plans/revised plans, as also the relevant legal provisions. Mr. Kakodkar, learned counsel for respondent no.5 disputes this position. He states that the construction and development activities are entirely consistent with the plans/revised plans as well as the relevant legal provisions.

5. In exercise of our jurisdiction under Articles 226 and 227 of the Constitution of India, we may not be in a position to go into the issues raised by the petitioner in the first instance. However, since, the petitioner has made this grievance by addressing representations to the statutory authorities, it will be appropriate, if such statutory authorities are directed to look into the grievances/complaints made by the petitioner and to address the same, in accordance with law.

6. Accordingly, we direct respondent no.2 and the Village Panchayat, Calangute, to treat the present petition as petitioner's

representation. In addition to this petition, the petitioner is granted liberty to file yet another representation within 10 days from today. Respondent no.2 and the Village Panchayat, Calangute, thereafter to decide such representations, on their own merits, and in accordance with law. Needless to add that the Authorities to comply with the principles of natural justice and fair play before taking any decision in the matter.

7. The representations to be disposed of within two months from the date of receipt of additional representation by the petitioner. The decision to be communicated to both the petitioner as well as respondent no.5. In case, at any later point of time, the petitioner and respondent no.5 decide to compromise the matter amongst themselves, the Authorities should pay no cognizance to such compromise. The Authorities to nevertheless look into the representations and decide the same, in accordance with law. It is made clear that this Court has not examined the merits of the rival contentions and, therefore, all the issues are left open to be decided by the Statutory Authorities, no doubt, in accordance with law and on their merits.

8. The learned counsel for the petitioner voluntarily offers

an amount of Rs.5000/- (Rs. Five thousand) only to the Goa State Legal Services Authority. Accordingly, from out of deposit of Rs. 50,000/- made by the petitioner, an amount of Rs.5000/- (Rs. Five thousand) only will be made over to the Goa State Legal Services Authority. The balance amount be refunded to the petitioner.

9. All concerned to act on the basis of the authenticated copy of this order.

Prithviraj K. Chavan, J.

M.S.Sonak, J.