

IN THE HIGH COURT OF BOMBAY AT GOA

***PUBLIC INTEREST LITIGATION
WRIT PETITION NO.24 OF 2019***

Mr. Sapnesh Vaigankar,
son of Manohar Vaigankar,
age 32 years, self employed,
R/o. H.No.6/229, Khobrawadda,
Calangute, Bardez-Goa.

..... Petitioner.

Versus

1. North Goa Planning and
Development Authority,
through its Member Secretary,
having office at Mala,
Panaji-Goa.
2. Village Panchayat Calangute,
through its Sarpanch/Secretary,
having office at Calangute,
Bardez, Goa.
3. State of Goa,
North Goa Planning Development
Authority, through Secretary,
having office at Secretariat,
Porvorim, Bardez, Goa.
4. Graviss Hotels and Resorts Limited
having office at 254-C, Annie Besant Road,
Worli, Mumbai, 400 030 and
having site office at Survey no.236/6.

5. Acron Housing Pvt.Ltd.,
a Company incorporated under
The Companies Act, 2013,
having office at Acron Plaza, 79/87,
Deonar, Mumbai 400088. Respondents.

Mr. Pranay Kamat, Advocate for the Petitioner.

Mr. Hanumant Naik, Advocate for respondent no.1.

Ms. Ankita Kamat, Advocate for respondent no.3.

Mr. A. D. Bhobe with Ms. Andrea Rodricks, Advocates for
respondent no.4.

Mr. A. F. Diniz with Mr. Ryan Menezes, Advocate for respondent
no.5.

***Coram : PRADEEP NANDRAJOG, CJ., &
M. S. SONAK, J.***

Date : 7th October 2019.

ORAL JUDGMENT (Per Pradeep Nandrajog, CJ.)

Rule. Rule is made returnable forthwith.

2. The grievance in the Public Interest Litigation is to the approval granted in favour of the fourth respondent by the first respondent to construct buildings having flats on the land comprised in Survey Nos.236/6, 236/7, 236/9 and 236/10A, village Calangute,

admeasuring 11,525 sq.mtrs. We are given to understand that about 168 flats would be constructed pursuant to the sanction granted. The anvil on which the petitioner intends to guillotine the permissions granted is the requirement of the development code that for such complexes a 6 mtr. wide road should abut the complex; and reason is obvious. The road should be able to bear the traffic load.

3. The response filed is that the development plan shows existence of a 6 mtr. wide road. The respondents also rely upon the fact that petitioner's father had obtained sanction to re-develop the building on the plot of land admeasuring 500 sq. mtrs. where the petitioner lives with his father and while submitting the plans had taken benefit of the existence of a 6 mtr. wide road.

4. The petitioner does not dispute that when his father obtained the necessary permission he took the benefit of the existence of the road 6 mtrs. wide.

5. The problem at site can be viewed by us with reference to an order dated 11.01.2010 passed in Writ Petition No.372/2009. There is a de facto and de jure hiatus concerning the road. The development plan shows a PWD road having width of 6 mtrs. at site but, what has been laid at the site is a road which narrows at strips

and broadens at strips. The Division Bench has noted this fact.

6. The Division Bench has directed that till the road is laid with a width of 6 mtrs., no further construction would be permitted.

7. Suffice it to state that the obligation to construct or lay down the road as per the development plan is of the concerned body in charge of the development be it the Village Panchayat or the Public Works Department of the State Government. They have to ensure that the width of the road is 6 mtrs. In this connection it would be relevant to note that the mandamus issued by the Division Bench on 11.01.2010, on which the petitioner relies, is the date when is after petitioner's father obtained the development permissions on 04.01.2017. The petitioner cannot maintain any action in public interest by taking advantage of the fact that as per the development plan the width of the road is 6 mtrs. and at the same time plead that respondent no.4 cannot take the benefit of the said road in view of the order dated 11.01.2010.

8. Terminating proceedings in Public Interest Litigation by declining relief as prayed for, we direct that the authority which has to ensure that the width of the road at site conforms to the width as shown in the development plan should take necessary action as per

law and lay down the road to its width of 6 mtrs. The mandamus shall be complied with within 6 months from today.

M. S. SONAK, J.

CHIEF JUSTICE

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