

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.382 OF 2019**

Colaso Arcade Co-operative
Housing Society Ltd.

... Petitioner

Versus

State of Goa & Ors.

... Respondents

Mr. Abhijit P. Gosavi, Advocate for the Petitioner.

Mr. Arun Talaulikar, Additional Government Advocate for
Respondent No.1.

Mr. V.V. Pednekar, Advocate for Respondent No.2.

Mr. M. Pereira, Advocate for Respondent No.3.

Mr. S.D. Lotlikar, Senior Advocate with Mr. J. Karn, Advocate
for Respondent No.4.

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

Date :- 29th JULY, 2019

ORAL ORDER :(Per M.S. SONAK, J.)

Heard Mr. Gosavi, the learned Advocate for the petitioner, Mr. Talaulikar, the learned Additional Government Advocate for respondent no.1, Mr. V. Pednekar, the learned Advocate for respondent no.2, Mr. M. Pereira, the learned Advocate for respondent no.3 and Mr. S.D. Lotlikar, the learned Senior Advocate along with Mr. J. Karn, the learned Advocate for respondent no.4.

2. The relief in this petition is a direction to

respondents no.2 & 3 to take some action on the basis of complaints of the petitioner in relation to some constructions being put up by respondent no.4.

3. Mr. Lotlikar, the learned Senior Advocate appearing for respondent no.4 points out that it is the petitioner, who has himself made illegal construction.

4. Today, Shri Gaurish J. Shankhwalkar, the Chief Officer of Mormugao Municipal Council, respondent no.2 has filed an affidavit on record in response to the petition. Paragraph 10 of this affidavit reads thus:

10. I say that a site inspection has been carried out by the Officials of this council along with representative of the Society i.e. Complainant on 23/07/2019 at 10:45 am and a Show Cause Notice under No.MMC/Tech/A.P./2019-2020/962 dated 23/07/2019 has been issued under Section 184 of the Goa Municipalities Act, 1968 to one Mrs. Banu Bi Shaikh (Respondent No.4 in this petition) calling upon to show cause why action to demolish the said illegally constructed structure should not be taken under section 184 sub-section 8 of the Goa Municipalities Act, 1968 and to be present

in person or through duly authorised agent on 02/08/2019 at 3.30 p.m. (Copy along with the report of transgression and the coloured photographs of the alleged illegal construction attached hereto and marked as Annexure 'F'.

5. According to us, the statements in the aforesaid paragraph 10 sufficiently redress the issue raised by the petitioner. Now that a show cause notice has been issued by the respondent no.2 to the respondent no.4, we direct that this show cause notice is taken to its logical conclusion as expeditiously as possible and in any case within a period of three months from today. We make no observations on the rival contentions because, we do not wish to prejudice defence of respondent no.4, if any, in the matter.

6. If the respondent no.4 lodges a complaint about the structure put up by the petitioner, then the respondent no.2 to look into the complaint and dispose of the same in accordance with law and on its own merits. Again, we make no observations on the issue of the legality or otherwise of the structure put up by the petitioner.

7. Before we part, we make it clear that statutory authorities like the Mormugao Municipal Council or the Mormugao Planning and Development Authority are to be guided by the legal provisions which constitute them and the rules, regulations and bye laws which they are required to faithfully implement. These statutory authorities cannot be deflected from the course of their duty on the basis of any private arrangements or compromises between the parties.

8. If the statutory authorities find that unauthorised constructions have come up then they should take action against them in accordance with law.

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

NUTAN D. SARDESSAI, J.
NH

M.S. SONAK, J.