

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 404 OF 2019

ISABEL PIEDADE CORREIA E
FERNANDES, REP. BY POA, LAWRENCE
FERNANDES.,

... Petitioner

Versus

STATE OF GOA, THR. ITS CHIEF
SECRETARY AND 12 ORS.,

... Respondents

Mr.Parag S. Rao, Advocate for the Petitioner.

Mr.Dattaprasad Lawande, Advocate General with Mr. Rajesh
Shivolkar, Addl. Government Advocate for Respondent Nos. 1,
2, 4 to 7.

Mr. Nigel Da Costa Frias, Advocate for Respondent Nos. 8 & 9.

Coram:- R. D. DHANUKA &
PRITHVIRAJ K. CHAVAN, JJ.

Date:- 25th April 2019

P.C.:

By this petition filed under Article 226 of the Constitution of India, the petitioner has challenged the order dated 02.07.2015 passed by the National Green Tribunal in Appeal No. 33/2004 and Appeal No. 35/2014, which according to the petitioner does not pertain to the structure of the petitioner.

2. It is the case of the petitioner that pursuant to the said impugned order dated 02.07.2015 passed by the National Green Tribunal, the petitioner was directed to demolish the structure.

3. Till date, there is no notice issued by the Authority for proposing to demolish the structure of the petitioner. If it is the case of the petitioner that the said order dated 02.07.2015 passed by the National Green Tribunal does not pertain to the structure of the petitioner, it is for the petitioner to seek clarification from the National Green Tribunal and initiate appropriate action. We are thus not inclined to interfere with the said order dated 02.07.2015 in this writ petition.

4. The petitioner would be at liberty to apply for fresh reliefs before the National Green Tribunal. It is made clear that this order would apply only in this case and not as a precedent.

5. In view of the fact that the petitioner as well as the complainant both are appearing before the Authority who will consider the issue of demolition and in view of the fact that this Court has granted liberty to the petitioner to apply for modification of the impugned order before the National Green Tribunal, the Authority shall not demolish the impugned structure for a period of four weeks from today. It is made clear that this Court has not expressed any views on merits of this petition. All contentions of both the parties are kept open. It is made clear that in the application proposed to be filed by the petitioner before the National Green Tribunal, the petitioner shall

identify the structure proposed to be claimed by the petitioner.

6. Mr. Rao, learned counsel for the petitioner states that the structure in question is already identified in the writ petition. The statement is accepted.

7. The writ petition is disposed of accordingly with no order as to costs.

8. Parties to act on the authenticated copy of this order.

PRITHVIRAJ K. CHAVAN, J.

R. D. DHANUKA, J.

MF/-