

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO. 37 OF 2019

- 1 Mr. Naresh Khulo Gaude, Major of age,
service Son of Khulo Gaude R/o. H.
No.20, Maddewada, Mangeshi, Ponda
Taluka Goa. Annual Income
Rs.180000/-

National Unique Identity No.
843835191693

Email:nareshgaude99@gmail.com

Telephone:9764751389.

- 2 Gurudas Ladu Gaude

Son of Ladu Gaude 61 years of age,
farmer, Resident of H. No.29, Maddewada
Mangeshi Ponda Goa- 403404.
National Unique Identity No.
817937745959 Telephone:9763426682

- 3 Vinayak Hulo Gaude

45 years of age, farmer son of Hulo
Gaude R/o. H. No.09, Suringbhat
Mangeshi, Mangueshi, Ponda Taluka
Goa.

Annual Income Rs.88000/-

National Unique Identity No.
498283662089

Email:nil.

Telephone:9730890045.

- 4 Ankush Liku Gaude,

Age 31 years, service, H. No. 34,

Musher, Mangeshi, Ponda-Goa 403404
Phone No.-Nil-
Fax No.- Nil-
Mobile No.7066178292
Pan Number:- Nil-
National Unique Identity No.
465436174441 Email:-Nil-
Annual Income Rs.96000/-.

5 Tukaram Krishna Gaude,

Son of Krishna Gaude 60 Years of age,
Farmer, Resident of H. No.69, Near
Ganesh Temple, Mangeshi Ponda Goa-
403404. National Unique Identity No.
XXXXXXXXX4041

Mobile No.:8806860352

Annual Income Rs.76000/-

6 Kishor Tatu Gaude, Son of Tatu Gaude,
60 years of age, Farmer, R/o. H.
No.25, Maddar Wada Mangeshi Ponda
Goa 403404. National Unique Identity
No. 661666326652

Annual Income:Rs. 96000/-

7 Prakash Anant Gaude, Son of Anant
Gaude, 50 years of age, Service, r/o H.
No.48, Near Ganesh Temple, Mangeshi
Ponda Goa- 403404. National Unique
Identity No. 421842692916

Annual Income: Rs.120000

..... Petitioners.

Versus

- 1 The State of Goa,
Through its Chief Secretary,
Secretariat, Porvorim Goa.
- 2 The Town Planner, Town & Country
Planning Department, Ponda Taluka
Office, Ponda, Goa.
- 3 The Chief Town Planner(Planning)Town
& Country Planning Department,
Panaji, Goa.
- 4 Shri Chitrapur Math Charitable Trust,
Shirali, Bhatkal, Uttar Karnataka,
Through its Authorized Signatory Mr.
Praveen Purushottam Kadle c/o
Chitrapur Math, 205 Govinda Building,
M. G. Road, Panaji Goa.
- 5 The Sarpanch,
Village Panchayat Cundaim, Ponda
Goa.
- 6 The Executive Engineer, Works Division
II, Water Resources Department,
Aquem Baixo, Rawanfond, Salcete
Goa.
- 7 Comunidade of Cundaim Through its
Attorney Cundaim, Ponda, Goa.

..... Respondents.

Mr. Nigel Da Costa Frias, Advocate for the petitioners.

Mr. D.J. Pangam, Advocate General with Ms. A. Kamat, Additional Government Advocate for the respondents No.1,2,3 and 6.

Mr. A.D. Bhobe, Advocate for the respondent No.4.

Mr. V. Pangam, Advocate for the respondent No.5.

Coram:- M. S. SONAK &

NUTAN D. SARDESSAI, JJ.

Date:- 21st August, 2019

ORAL JUDGMENT : (Per M.S. Sonak,J.)

Heard Mr. Nigel Da Costa Frias, learned Advocate for the petitioners, Mr. D.J. Pangam, learned Advocate General with Ms. A. Kamat, learned Additional Government Advocate for the respondents No.1,2,3 and 6, Mr. A.D. Bhobe, learned Advocate for the respondent No.4 and Mr. V. Pangam, learned Advocate for the respondent No.5.

2. Rule. Rule is made returnable forthwith, at the request of and with the consent of the learned Counsel for the parties.

3. Ms. A. Kamat, learned Additional Government Advocate waives service on behalf of the respondents No.1,2,3 and 6, Mr. A.D. Bhobe, learned Advocate waives service on behalf of the respondent No.4

and Mr. V. Pangam, learned Advocate waives service on behalf of the respondent No.5.

4. The main grievance in this petition relates to the construction undertaken by the respondent No.4 in the property bearing Survey No.62/0 at Arjuna Malgi, Cundaim, Goa.

5. In pursuance of the complaints made by the petitioners the Officer of the Town and Country Planning Department held a site inspection, in which, they noticed certain deviations from the approved plan. Accordingly, by communication dated 17/06/2019 addressed to the Sarpanch / Secretary of the Village Panchayat of Cundaim (respondent No.5) the Deputy Town Planner has brought to the notice of respondent No.5 the deviations and left it to the respondent No.5 to take necessary action as per the Rule in force. This communication dated 17/06/2019 is produced for our perusal by the learned Advocate General.

6. Mr. V. Pangam, learned Advocate for respondent No.5- Panchayat states that the Panchayat will decide on the complaints of the petitioners as also take into account the communication dated 17/06/2019 addressed by the Deputy Town Planner on the issue of deviation. He submits that Planning Authorities may be directed to

furnish to the Panchayat copies of the inspection report or other relevant documents in relation to the construction in question.

7. The learned Advocate General states that copies of the inspection report and other relevant documents in relation to the construction in question will be made available to the Panchayat within a period of two weeks from today.

8. Mr. Bhole, learned Counsel for the respondent No.4 submits that there is no illegality whatsoever in the construction that is being undertaken by the respondent No.4. He submits that the respondent No.4 has explained this position in the affidavit filed in this Court today.

9. According to us, the main purpose for entertaining the present petition is to only activate the authorities to look into the complaints made by the petitioners. The Town and Country Planning Department Authority have conducted a site inspection and thereafter addressed communication dated 17/06/2019 to the respondent No.5-Panchayat. The respondent No.5 - Panchayat has also undertaken to look into the complaints of the petitioners and to also take cognizance of the communication dated 17/06/2019.

10. The issue as to whether the construction which is being undertaken by the respondent No.4 is illegal or nor is a matter which is at least for the first instance required to be examined by the statutory authorities like Panchayat respondent No.5 and the Town and Country Planning Department. Accordingly, we direct the respondent No.5-Panchayat to dispose of the complaints made by the petitioners in relation to the construction of the respondent No.4 as expeditiously as possible and in any case within a period of six weeks from today. The respondent No.5-Panchayat, to comply with the principles of natural justice and fair play. The Panchayat will take into consideration the written responses of both the petitioners as well as the respondent No.4. The statement made by the learned Advocate General regards supply of inspection report and other documents to the Panchayat is accepted. The inspection report and the documents to be furnished to the Panchayat within two weeks from today. Such documents may be furnished to the petitioners as well as the respondent No.4.

11. The Panchayat to communicate its decision to the petitioners and the respondent No.4 within a period of two weeks from the date the same is actually taken.

12. The petitioners as well as the respondent No.4, if aggrieved by the decision of the Panchayat shall be at liberty to take out further proceedings as contemplated in the Panchayat Raj Act.

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

NUTAN D. SARDESSAI, J.

M. S. SONAK, J.

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