

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 801 OF 2018****ROHIDAS SIMEPURUSHKAR (DEC) THR.****HIS LRS.,****... Petitioner****Versus****LOUIS FRANCISCO LOBO AND 4 ORS.,****... Respondents**

Adv. Prasheen Lotlikar for the Petitioners.

Adv. Vilas P. Thali for Respondent nos.1 & 2.

Mr. Pravin Faldessai, Addl. Government Advocate for Respondent no.3.

Coram:- C. V. BHADANG, J.

Date:- 27th June 2019.

Oral Order:

Heard learned counsel for the parties.

2. The learned Deputy Collector while directing demolition had observed that the competent authority may consider regularization of the subject structure, within a period of six months and if no such orders for regularization are passed, the Mamlatdar was directed to take steps for demolition of the subject structure. That order was challenged by the respondent nos.1 and 2 before the learned District Judge and the learned District Judge by the impugned judgment and order dated 19/6/2018, while allowing the appeal has set aside the said order which is subject matter of challenge in this petition.

3. I have heard Shri Lotlikar, the learned counsel for the petitioner, Shri Thali, the learned counsel for the respondent nos.1 and 2 and Mr. Faldessai, the learned Additional Government Advocate for the Respondent no.3. Perused record.

4. The only contention raised on behalf of the petitioner is that there are two applications for regularization filed, one each in the year 2017 before the North Goa Planning and Development Authority (NGPDA) and the other before the Goa Coastal Zone Management Authority(GCZMA) in the year 2018, which are pending. The learned counsel for the petitioner has expressed apprehension that the impugned judgment may come in the way of the petitioner in prosecuting the application for regularization.

5. I do not find that the contention can be accepted. There is nothing to prohibit the competent authority from considering the application for regularization on its own merits and in accordance with law. In any event, it is statutory power of the competent authority to take decision one way or the other on the claim for regularization made by the petitioner.

6. Mr. Thaly, the learned counsel for the respondent nos.1 and 2 submits

that the impugned demolition was initiated on the basis of a direction issued by the Division Bench of this Court in Writ Petition no.423/1996 decided on 23/6/1997 (**Shri Antonio Lobo and anr. Vs. Goa State Committee on Environment and others**). The learned counsel points out that the second respondent was the petitioner no.1 in the said petition, which was filed by the second respondent along with the Chapel of Nossa Senhora da Piedade. He therefore, submits that the second respondent may be directed to be heard before the application for regularization is decided by the competent authority. In such circumstances the writ petition is disposed off with no order as to costs. The competent authority shall decide the applications for regularization on their own merits and in accordance with law without being influenced by the observations made by the learned District Judge. The competent authority may also consider, hearing the second respondent before deciding the claim for regularization.

C. V. BHADANG, J.

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