

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 947 OF 2019**

Mr. Nilesh Gokuldas Pagi,
Son of Gokuldas Pagi,
aged 34 years,
R/o H.No.384/B and 385/C,
Dhavaikhajan Agonda,
Canacona Goa.

... Petitioner

Versus

Village Panchayat of Agonda-Canacona,
Agonda, Canacona Goa.

...Respondent

Mr. J. Abreu Lobo, Advocate for the Petitioner.

Mr. Pranay A. Kamat, Advocate for the Respondent.

**Coram:- M. S. SONAK &
C. V. BHADANG, JJ.**

Date:- 4th December, 2019

Oral Judgment (Per M. S. Sonak, J)

Heard Mr. J. A. Lobo, learned counsel for the Petitioner and
Mr. P. A. Kamat, learned counsel for the Village Panchayat of Agonda-
Canacona.

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

3. The Respondent-Panchayat had issued demolition order against almost 40 structures located in Survey No.118/8-E at Agonda Goa. This demolition order was challenged before the Addl. Director of Panchayats. This challenge was disposed of by the Addl. Director of Panchayats by making the following order on 9th October, 2019.

“Heard Ld. Advocate for the Appellant and gone through the entire documents on record.

It is the case of the Appellant that he has got all the necessary permissions in respect of the suit structure and the Respondent without verifying the same has issued him the demolition notice dated 5/09/2019. However it is to be noted that the Honourable High Court in the Writ Petition No.406 of 2019 has directed the Panchayat to once again to visit the site to hold the site inspection and see whether the structure exist at the site or are demolished. Accordingly, the Respondent has visited the site and prepared report and sketch of the said structure and issued fresh notice of demolition order instead of asking for the services of the demolition squad. Hence, the present appellant has filed the present appeal and also asking for ex-parte stay.

In view of the above this Court is of the opinion that it is but appropriate on the part of the Panchayat to strictly comply with the direction contained in the above writ petition and to take action accordingly.

The present case is remanded back to the Respondent to take action accordingly and in accordance with the High Court Order and after considering the documents of the Appellant.”

4. As is clear from the aforesaid order, the Panchayat was in fact

complying with the directions issued by this Court in Writ Petition No.406 of 2019. The Additional Director of Panchayats remanded the matter to the Panchayat to take action in accordance with the High Court order and after considering the documents of the Appellant.

5. Mr. Lobo, learned counsel for the Petitioner who claims to have put up all 40 structures in the aforesaid survey number submits that the Panchayat, without considering the documents furnished by the Petitioner has straightaway proceeded to demolish almost 18 out of 40 structures. He submits that in doing this, the Panchayat has acted contrary to the order dated 9th October, 2019 made by the Additional Director of Panchayats.

6. In this case, we had issued ad interim relief on 10th October, 2019 and on the strength of the same, 22 structures are still at the site in the said survey number.

7. Mr. Kamat, learned counsel for the Panchayat states that the Panchayat without prejudice to its rights and contentions will consider whatever documents the Petitioner produces at its meeting scheduled on 16th December, 2019 and thereafter make appropriate orders. He points out that even the owner of the property bearing survey No.118/8-E has filed a complaint and the same will also be considered by the Panchayat on

the said date alongwith the documents which the Petitioner may furnish.

8. We accordingly grant the Petitioner a liberty to produce the documents and also to file written submissions before the Panchayat latest by 13th December, 2019. Such opportunity may also be granted to the owner, if the owner applies for the same. The Panchayat to consider all this material and to pass appropriate order latest by 20th December, 2019. It is made clear that such decision will not be postponed considering that the Panchayat is under obligation to enforce the orders of this Court.

9. Until such decision is taken and communicated to the Petitioner at the address indicated in the cause title to this petition, the Panchayat will refrain from demolishing 22 structures which are at the site today.

10. At this stage, Mr. Lobo, learned counsel for the Petitioner submits that in case any adverse order is passed by the Panchayat, it should be clarified that the Petitioner will have right to take recourse to the further remedies provided under the Panchayat Raj Act. Mr. Lobo, on instructions states that in case any order for demolition is made, the Petitioner undertakes not to use the said structures for any commercial purpose/tourism related activities forthwith, till the appropriate orders, if any, are made by the Authorities under the Panchayat Raj Act. Taking into

consideration such undertaking which we accept as undertaking given to this Court, we direct that in case any adverse order for demolition is made by the Panchayat, the same should not be actually executed for a period of 15 days. Further, we clarify that the rights and remedies, if any, available to the Petitioner under the said Act are also kept intact. However, we add that in case the Petitioner fails to comply with the undertaking now given to this Court, the Panchayat will be at liberty to execute its demolition order.

11. Rule is accordingly disposed of in the aforesaid terms. There shall be no order as to costs.

C. V. BHADANG, J.

M. S. SONAK, J.

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