

IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION (REVIEW) NO. 11 OF 2018

IN

WRIT PETITION NO. 614 OF 2017

B. L. AFONSO.,

... Applicant

Versus

**VILLAGE PANCHAYAT OF ST. ESTEVEM,
THR. THEIR SARPANCH/SECRETARY AND
2 ORS.,**

... Respondents

Mr. Ajit R. Kantak, Advocate for the Applicant.

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

Date:- 27th February 2019

P.C.:

Heard Mr. A.R. Kantak, learned Counsel for the applicant.

2. This petition seeks review of order dated 03/10/2017 made in Writ Petition No.614/2017.

3. Mr. Kantak, learned Counsel for the petitioner submits that the order for demolition of the compound wall of respondent no.2 has attained finality. He points out that even the Panchayat, who was required to execute such demolition order had filed an affidavit that they have made a requisition to the Block Development Officer for removal/demolition of illegal wall

erected in Survey No.135/03 of the Village of St. Estevam. Mr. Kantak, therefore, submits that there was no reason not to grant the reliefs prayed for by the petitioner. He submits that the denial of relief constitutes an error apparent on face of record.

4. In our order dated 03/10/2017, at paragraph 3, we had observed that the issue raised in the present petition was only academic because in the meanwhile, the second respondent applied for regularisation and this was granted by the Panchayat vide its resolution dated 23/05/2015. In such circumstances, we observed that so called illegality has therefore been regularised in accordance with law.

5. Mr. Kantak, learned Counsel for the petitioner pointed out that the regularisation resolution dated 23/05/2015 was not at all in accordance with law. He submits that this is the reason why the Panchayat filed its affidavit without even referring to the resolution dated 23/05/2015.

6. According to us, there is no case made out to exercise our review jurisdiction. However, in case, the petitioner is aggrieved by the resolution dated 23/05/2015 for regularisation of the compound wall, the petitioner, can always be granted liberty to challenge the same. Our observation to the effect that the regularisation resolution is "in accordance with law", does not

mean that we have examined the legality or validity of the resolution dated 23/05/2015. Before us, there was no occasion to exercise the legality and validity of such resolution.

7. However, since the resolution dated 23/05/2015 made by the Panchayat was in force, obviously there was no question of we issuing any writ of mandamus to enforce the earlier order.

8. With the aforesaid clarification and liberty, we dispose off the present review petition.

NUTAN D. SARDESSAI, J.

M. S. SONAK, J.

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