

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO. 5 OF 2019

PRASHANT M. SHIRODKAR.,

... Petitioner

Versus

**STATE OF GOA, THR. ITS CHIEF
SECRETARY.,**

... Respondent

Mr. Rui Alberto Gomes Pereira, Advocate for the petitioner.
Mr.Dattaparasad Lawande, Advocate General with Mr.P.Dangui,
Government Advocate for the respondent.

Coram:- M. S. SONAK &
PRITHVIRAJ K. CHAVAN, JJ.

Date:- 5th February 2019

P.C.

Heard Mr.Rui Alberto Gomes Pereira, learned counsel for the petitioner and Mr. Dattaprasad Lawande, learned Advocate General for the respondent.

2. The petitioner, by instituting the present Public Interest Litigation, seeks reliefs of striking down the Goa Buildings (Lease, Land and Eviction) Control Act, 1968, on the ground that the said enactment is unconstitutional, invalid and irrational. In the alternative, the petitioner seeks striking down Sections 12 to 16, 18, 21, 22, 23(1) 33 and Clause (p) of Section 2 of the Rent Control Act, as unconstitutional.

3. In Guruvayoor Davaswom Managing Committee Vs. C.K.

Rajan : (2003) 7 SCC 546, the Hon'ble Apex Court has held that ordinarily, the High Court should not entertain a writ petition by way of Public Interest Litigation questioning the constitutional validity of a statute or a statutory rule.

4. Mr.Pereira, learned counsel for the petitioner, submits that this is not an ordinary case, since, the petitioner is a landlord and the petitioner has vital interest in seeing that the provisions of the Rent Control Act are declared unconstitutional since, such provisions infringe petitioner's several fundamental rights, not to mention right guaranteed under Article 300A of the Constitution of India, as well.

5. According to us, there is no necessity to entertain Public Interest Litigation on these issues. If the petitioner has any disputes against his tenant and if it is the case of the petitioner that the provisions of the Rent Control Act, come in his way and further that such provisions are unconstitutional, it is always open to the petitioner to file an appropriate petition in his private capacity. We do not intend to prevent the petitioner from doing so. However, we are of the opinion that the matter of this nature, cannot be entertained as Public Interest Litigation taking into consideration the observations of the Hon'ble Apex Court in the case of Guruvayoor Davaswom Managing Committee (supra).

6. Mr.Pereira points out that in certain matters, relating to environment, public interest litigation, have been entertained to even question the validity of statute or statutory Rules. The position in relation to environmental matters is quite different and the same cannot be compared with the position in the present case whether the dispute is basically between the petitioner, who is landlord and his tenants. Accordingly, we dismiss this public interest litigation but, grant liberty to the petitioner to file an appropriate petition if so advised, in his personal capacity. In such petition, needless to add, the petitioner will have to implead his tenant as respondent.

7. With liberty as aforesaid, this Public Interest Litigation is dismissed. There shall be no order as to costs.

PRITHVIRAJ K. CHAVAN, J.

M. S. SONAK, J.

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