

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 30 OF 2020**

- 1). Mrs. Santana Rodrigues,
widow of Constancio Fernandes,
74 years of age;
- 2) Shri Constancio Fernandes,
(Since deceased), through
his legal heirs:
 - 2a) Romaldo Fernandes,
aged 45 years, son of late
Shri Constancio Fernandes,
major of age;
 - 2b) Ms. Goretti Fernandes,
aged 38 years, daughter of
Shri Constancio Fernandes,

All Indian Nationals, residents of
House No.36, Azordem, Borim,
Ponda-Goa.

.... Petitioners.

Versus

- 1). State of Goa,
through its Chief Secretary,
Secretariat, Porvorim-Goa.
- 2). Block Development Officer of
Ponda, Government of Goa,
having Office at Ponda-Goa
- 3). Village Panchayat of Borim,
through its Secretary/Sarpanch,
having Office at V.P. Borim,
Borim, Ponda-Goa.

- 4). Director of Panchayats,
Government of Goa,
having Office at Junta House, 3rd
Lift, Panaji-Goa.
- 5). Office of the Deputy Collector,
Government of Goa,
having Office at Ponda-Goa.
- 6). Mr. Francisco Xavier Fernandes,
son of Agostinho Fernandes, aged 67
years, residing at House No.37(New)
& 115(Old), Azordem, Borim,
P9onda-Goa.

.... Respondents.

Mr. Dhaval Zaveri, Advocate for the Petitioner.

Mr. Devidas J. Pangam, Advocate General with Mr. Sagar Dhargalkar, Additional Government Advocate for the Respondents No.1, 2, 4 and 5.

Mr. Byron Rodrigues, Advocate for the Respondent No.6.

**Coram : M. S. SONAK &
M. S. JAWALKAR, JJ**

Date: 04th November, 2020

ORAL JUDGMENT:

Heard Mr. Dhaval Zaveri, the learned Counsel for the petitioner, Mr. Sagar Dhargalkar, the learned Additional Government Advocate for the respondents No.1, 2, 4 and 5 and Mr. Byron Rodrigues, the learned Counsel for the respondent No.6.

2. In this matter, the respondent-Village Panchayat has already been served and even an affidavit has been filed. However, today, there is no advocate representing the respondent No.3.

3. We issue Rule in this matter and make the Rule returnable forthwith.

4. The petitioner has made complaints about illegal construction put up by the respondent No.6. Pursuant thereto, the structure put up by the respondent No.6 was ordered to be demolished by the Panchayat and such demolition orders were upheld by the other authorities under the Panchayat Raj Act, 1994 (said Act). The learned District Judge, in the revision instituted by the respondent No.6 upheld the demolition order but granted the respondent No.6 liberty to seek regularisation. The petitioners herein challenged the District Judge's order dated 13.08.2018 in Writ Petition No.76 of 2019. This was, however, dismissed by order dated 10.06.2019.

5. In pursuance of the liberty granted, the respondent No.6 filed for regularisation to the Village Panchayat. The application came to be rejected and such rejection order is now questioned by respondent No.6 by instituting proceedings bearing No.CRVA/2/2020 pending before the learned District Judge-II at Ponda.

6. Mr. Rodrigues, made a statement before this Court, no doubt on instructions, that there is interim relief granted in the aforesaid proceedings. However, today, Mr. Rodrigues states that this statement was erroneous as there is no interim relief granted by the learned District Judge-II at Ponda in the pending proceedings. Mr. Rodrigues assures this Court that henceforth he will make statements only after verification of the facts.

7. Mr. Rodrigues, further points out that in proceedings before the learned District Judge-II, arguments are concluded and the matter is posted for orders on 07.11.2020, i.e. this Saturday. Mr. Zaveri, the learned Counsel for the petitioner confirms this position but points out that there may be some issue of the availability of the Presiding Officer.

8. Taking into consideration all the aforesaid circumstances, interests of justice will be met if the learned District Judge-II at Ponda is requested to dispose of the CRVA/2/2020 where this application is filed latest by 23.11.2020.

9. In case the proceedings initiated by the respondent No.6 are dismissed, the Panchayat and all other concerned authorities to ensure that the demolition order is enforced, without any delay, unless there is any interim relief obtained in the meanwhile. The directions

are issued to the Panchayat and other authorities accordingly.

10. In the facts of the present case, the respondent No.6, to pay costs of ₹5,000/- to the petitioner. The learned Counsel for the petitioner, on the basis of instructions, states that the amount may be paid to the Goa State Covid-19 Relief Fund. Accordingly, the respondent No.6 to pay such costs within one week from today and file proof of payment in the Registry of this Court.

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

12. All concerned to act on the basis of the authenticated copy of this Order.

M. S. JAWALKAR, J.

M. S. SONAK, J.