

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 43 OF 2020**

Mr. Satish Mathur Tupkar, major of age, resident
of Vancio wado, Guirim, Bardez-Goa. Petitioner

Versus

1. The State of Goa, Through the Chief
Secretary, Porvorim-Goa.
2. The Director of Panchayats, having office at
Junta House, Panaji, Goa.
3. The Secretary, Village Panchayat of Guirim,
Guirim-Goa.
4. Deputy Director of Panchayat at North-Goa
at Panaji.
5. Mr. Shamsundar Palyekar, major of age,
Indian National, resident of Vancio Vaddo,
Guirim, Bardez-Goa. Respondents

Mr. Chaitanya Padgaonkar, Advocate for the Petitioner.

Mr. Shivdatt P. Munj, Additional Government Advocate for
Respondent Nos. 1, 2 and 4.

Mr. Neelesh A. Takkekar, Advocate for Respondent No. 3.

Mr. Nuno Noronha, Advocate for Respondent No. 5.

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

Date:- 18th February, 2020

ORAL JUDGMENT: (Per M. S. Sonak, J.)

Heard Mr. Padgaonkar, the learned Counsel for the petitioner, Mr. Munj, the learned Additional Government Advocate for respondent nos. 1, 2 and 4, Mr. Takkekar, the learned Counsel for the respondent no. 3-Panchayat and Mr. Noronha, the learned Counsel for the respondent no. 5.

2. Rule. Rule made returnable forthwith at the request and by consent of the learned Counsel for the parties.

3. The Village Panchayat of Guirim-respondent no. 3 has issued a demolition order dated 30.01.2019, in respect of a portion of a structure, put up by the respondent no. 5. The petitioner complains that despite the fact that this demolition order has attained finality, the Panchayat is not taking steps to proceed with the actual demolition.

4. Mr. Takkekar, the learned Counsel for the respondent no. 3 states that the Panchayat will be taking steps with the assistance of the demolition squad for giving effect to the demolition order dated 30.01.2019.

5. Mr. Noronha, the learned Counsel for the respondent no. 5 pointed out that the respondent no. 5 has applied to the Deputy

Town and Country Planner, Town and Country Planning, Bardez, Goa for regularization. He submits that some orders be made to direct the Deputy Town and Country Planner for expeditious disposal of the application for regularization. He submits that in case, the regularization is declined, then, the respondent no. 5, on his own, will demolish the illegal portion of the structure immediately.

6. Mr. Munj, the learned Additional Government Advocate, on instructions, states that the applications for regularization dated 26.02.2019 and 10.02.2020 made by the respondent no. 5 will be disposed off by the Deputy Town Planner as expeditiously as possible and in any case, within a period of 30 days from today. He states that the decision, one way or the other will be communicated to the Panchayat, the petitioner and the respondent no. 5, within a period of 30 days from today. This statement is accepted.

7. The respondent no. 5 in para 18 of the affidavit in reply, filed today, has stated and undertaken as follows:

I say that, in the circumstances, if my house is demolished in terms of the Order dated 30/1/2019 (Annexure-D) prior to the disposal of my applications dated 26/02/2019 and 10/02/2020 (Annexures R-11 and R-13) then grave prejudice shall ensue me. Hence, I hereby humbly seek the indulgence of this Hon'ble Court to permit my applications dated 26/02/2019 and 10/02/2020 (Annexures R-11 and R-13) to be decided one way or the other, prior to Order dated 30/01/2019

(Annexure-D) being acted upon. This Hon'ble Court may be pleased to expedite the disposal of the said applications dated 26/02/2019 and 10/02/2020 (Annexures R-11 and R-13).

I hereby undertake that if my applications dated 26/02/2019 and 10/02/2020 (Annexures R-11 and R-13) are rejected then I shall on my own demolish the alleged illegal portion of my house bearing House No. 29/1 of Village Guirim in terms of the said Order dated 30/01/2019 (Annexure-D) to the extent of the portion not regularised, within such time as this Hon'ble Court shall determine.

8. The undertaking contained in para 18 of the affidavit in reply as above, is accepted as an undertaking to this Court. If the Deputy Town Planner, declines regularization, the respondent no. 5 in compliance with his own undertaking to demolish the unauthorized portion of the structure, within a period of 15 days without seeking any further extension of time.

9. In case, the respondent no. 5 fails to do so, apart from the contempt action, which the respondent no. 5 may have to face, the Panchayat to ensure that the unauthorized portion of the structure is demolished, within a period of further 15 days. The other authorities like the demolition squad or the police authority to render all possible assistance in execution of the demolition order in the time line indicated in this order. Rule is disposed off in the aforesaid terms. There shall be no order as to costs.

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

NUTAN D. SARDESSAI, J.

M. S. SONAK, J.

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