

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.1012 OF 2019**

TUKARAM DATTA NAIK. ... Petitioner

VS

THE VILLAGE PANCHAYAT OF SANVORDEM,
THR. ITS SECRETARY AND ANR. ... Respondents

Mr. Shane Gomes Pereira, Advocate for the Petitioner.

Mr. R. G. Ramani, Senior Advocate with Mr. P. Kakodkar, Advocate for
Respondent No.2.

Coram: M. S. SONAK, J

Date: 14th July 2021

P.C.

Heard Mr. Shane Pereira, learned counsel for the Petitioner,
and Mr. R. G. Ramani, learned Senior Advocate who appears along with
Mr. P. Kakodkar for Respondent No.2.

2 The challenge in this petition is to the judgment and order
dated 27th August 2019 made by the Additional Director of Panchayats,
South Goa, Margao.

3 After this matter was argued for some time on 29th June
2021, the following order came to be made.

*“ Heard Mr. Shane Gomes Pereira, learned
Counsel for the petitioner.*

2. Mr. Pereira states that the construction, which

is now been ordered to be demolished by the impugned order, had reached only upto the plinth level. He states that photographs of the position at the site backed by an affidavit will be filed on or before the next date and even copies thereof served upon the learned Counsel appearing on behalf of the respondents.

3. Mr. Pereira states that the petitioner has already applied for permission before the concerned authorities and the petitioner, will be satisfied if some orders are made to permit the petitioner to proceed with the constructions only after necessary permissions are received from all the authorities.

4. Today, the learned Counsel for the respondents are also not appearing in the matter. Having regard to the submissions made by Mr. Pereira, the matter is adjourned to 07.07.2021, making it clear that an attempt will be made to dispose of this petition finally at the stage of admission on the said date. Mr. Pereira undertakes to inform Mr. Ramani, the learned Counsel appearing for the contesting respondents about the order made today.

5. The Registry to also indicate the name of Mr. P. Kakodkar on the cause list since, the order dated 18.12.2019 records that Mr. P. Kakodkar appears for respondent No.1. Mr. Pereira states that he will give necessary notice to the respondent No.2 as well informing that the matter will be taken up for final disposal on 07.07.2021.”

4 In response to the aforesaid order, the Petitioner, has filed an affidavit on 5th July 2021 along with photographs. From the

photographs, it appears that there are some steel rods and hardly one or two old walls at the site. The photographs indicate that some attempt was being made by the Petitioner to lay a plinth/foundation at the site.

5 Mr. Pereira admits that no permissions were obtained from the concerned Authorities. He, on instructions, states that the Petitioner will not undertake any further construction at the site in question unless they obtain necessary permissions/regularization orders from the concerned Authorities. This statement is accepted and the Petitioner will have to abide by the same.

6 Mr. Ramani, learned Senior Advocate for Respondent No.2 submits that the property where the construction has been put up belonging to Respondent No.2 and Respondent No.2 claims to be a declared mundkar. He submits that no construction or regularization can be granted without the consent of Respondent No.2. He points out that a civil suit has already been filed and it is despite the injunction order an attempt was made by the Petitioner to undertake the construction. He submits that even a contempt petition is pending.

7 According to me, the private disputes between the parties are not required to be normally addressed in the proceedings under the Panchayat Raj Act. For that purpose, the parties have correctly approached the Civil Court and the matters are pending in the Civil Court. None of the orders made in these proceedings are intended to

even remotely affect the matters before the Civil Court.

8 Though it is not for this Court to grant any party leave to apply for fresh permission or to seek regularization, in the peculiar facts of the present case, it is made clear that if such applications are indeed made by the Petitioner, then, the concerned Authorities including the Panchayat afford an opportunity of hearing to the Respondent No.2 as well before such applications are considered.

9 Since, the Petitioner has admitted that the construction attempted was without any permissions, there is no case made out to fault the order made by the Additional Director of the Panchayats. However, now that the Petitioner has undertaken to maintain the status quo at the site as is depicted in the photographs annexed to the Petitioner's affidavit dated 5th July 2021, there is no necessity of presently effecting any demolition. However, if even within six months from today, no permissions/regularization orders are obtained, then, even the vestiges of construction at the site will have to be removed. This is again without prejudice to any orders that the Civil Court may make in the meanwhile in the matter.

10 With the aforesaid modification to the impugned order, this petition is disposed of. It is made clear that all rights and contentions of all parties in the pending civil suit are left expressly open.

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

M. S. SONAK, J.

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