

Maria S.

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 158 OF 2020

Joan Mascarenhas E. D'Souza And Anr. ... Petitioners
Versus
Village Panchayat of Sodiem-Siolim, thr. Its
Secretary And 2 Ors. ... Respondents

Mr. Kapil D. Kerkar, Advocate for the Petitioners.
Ms. Gandhali Kharbe, Advocate for the Respondent No.1.
Mr. Nitin D. Sardesai, Senior Advocate with Mr. Gaurang
D. Panandiker, Advocate for the Respondents No. 2 and 3.

CORAM: M. S. SONAK

DATED: 20th July 2021

P. C.

1. Heard Mr. Kapil D. Kerkar, the learned Counsel for the petitioners, Mr. Nitin D. Sardesai, learned Senior Advocate with Mr. Gaurang D. Panandiker, learned Counsel for the respondents No.2 and 3 and Ms. Gandhali Kharbe, learned Counsel for the respondent No.1.

2. The challenge in this petition is to the order dated 23.10.2018 made by the Additional Director of Panchayat and the order dated 09.09.2019 made by the learned District Judge, Mapusa.

3. By order dated 23.01.2018 the Additional Director set aside the demolition notice issued by the Panchayat concerning the structure put up by the respondents No.2 and 3. By order dated 09.09.2019 the learned District Judge has dismissed the revision against the order dated 23.01.2018.

4. Mr. Kerkar, the learned Counsel for the petitioners submits that the revisional Court has accepted the position that the structure was put up without permissions. He submits that this having been accepted the revision should have been allowed and the demolition order issued by the Panchayat restored. Mr. Kerkar submits that even otherwise it is apparent that the respondents No.2 and 3 are trying to pass off this construction based on certain permissions which do not concern the structure now put up. He submits that even at a later point of time permissions have been obtained from some authorities based on these representations. He, therefore, submits that the impugned orders may be set aside.

5. Ms. Gandhali Kharbe, learned Counsel for the Panchayat leaves the matter for the determination of this Court.

6. Mr. Sardesai, the learned Senior Advocate on behalf of the respondents No.2 and 3 submits that this petition as well as the

complaints which led to the issuance of the demolition order were instituted only to harass the respondents No.2 and 3. Mr. Sardesai points out that even police complaints have been filed against the petitioner and no sooner, the petitioner was released on bail that, these spate of complaints came to be lodged. Mr. Sardesai submits that the structure is backed by permissions and now that two Authorities have determined the matter, this Court, may not interfere in exercise of its extraordinary jurisdiction.

7. The petitioner in this case, does not claim to be the neighbour of respondents No.2 and 3 or otherwise affected by the structure in question. This is not to say that the petitioner lacks any locus standi to file a complaint about an illegal structure in the Village or that his complaint ought not to be looked into by the Authorities. The complaint made by the petitioner was in fact considered by the Panchayat which issued the demolition order. However, the Additional Director and now the District Court, on examination of the documents on record have concluded that such demolition order ought not to have been issued because the structure related to the permissions which were relied on by respondents No.2 and 3.

8. Mr. Kerkar, learned Counsel was unable to demonstrate any perversity in the findings recorded by the two Authorities or for

that matter, approach of the two Authorities. In the absence of any perversity, it will not be appropriate for this Court to interfere with the findings of fact.

9. Besides, this is a matter where the petitioner's complaints were considered and now, they have been disposed of, though, not to the satisfaction of the petitioner. If the petitioner has any grievances about permissions granted by any of the Authorities, then, it is for the petitioner to take appropriate steps in that regard. There is no necessity to entertain the present petition for that purpose.

10. The submissions made by Mr. Sardesai, learned Senior Advocate for the respondents No.2 and 3 also are not entirely irrelevant particularly because this is not a case where the petitioner claims to be some neighbour or is otherwise specifically affected by the construction in question.

11. For all the aforesaid reasons, this petition is dismissed.

12. There shall be no order as to costs.

M. S. SONAK, J.