

Vinita

IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO.157 OF 2019.

FILOMENA SALDANHA, REP. BY
THEIR CONST. ATTORNEY, FLOYD
SALDANHA AND ANR., ...Petitioners.
VS
SUNIL KOHLI, REP. BY NAVAL
VISHNUDUTT AND ANR. ...Respondents.

Mr. P. Talaulikar, Advocate for the Petitioners.
Mr. A. R. Kantak, Advocate for the respondent no.1.
Mr. Zeller D'Souza, Advocate for the respondent no.2.

CORAM: MANISH PITALE, J.
Date: 2nd MARCH, 2022

ORAL ORDER

The petitioners have approached this Court challenging an order dated 8.1.2019, passed by the District Court, whereby an application for condonation of delay filed on behalf of the respondent no.1 has been allowed and delay has been condoned. The application for condonation of delay concerned filing of a Civil Revision Application bearing No. 5 of 2019 under Section 201(B) of the Goa Panchayat Raj Act, 1994. There was a delay of 122 days in filing the revision application, which stood condoned. According to the petitioners, sufficient ground was not made out for condonation of delay, and yet the District Court proceeded to pass the impugned order.

2. The aforesaid Civil Revision Application was filed along with the application for condonation of delay by the respondents to challenge judgment and order dated 3.7.2015, passed by the Director of Panchayats. After considering the contentions of the rival parties, the Director of Panchayats, allowed the appeal filed by the petitioners herein and directed as follows:

“ORDER

- 1. Appeal is hereby allowed.*
- 2. Order dated 29.1.2013 passed by the Dy. Director of Panchayats, South in Appeal No. DDPS/20/212 is set aside.*
- 3. Panchayat shall verify true ownership of the property under Survey No. 58/2 and adhere to the relevant provisions of the Goa Land Development and Building Construction Regulations, 2010 before issue of the construction licence.*
- 4. Exiting access of 3.00 mts to the property under Survey No. 59/1 through the property under Survey No. 58/2 be maintained before issue of construction licence to the owners of property under Survey No. 58/2.*
- 5. This order disposes the Panchayat Appeal No. 27/2013 filed by the Respondent Panchayat.”*

3. It is significant that clause (4) of the above quoted order directed that access of 3 mts shall be maintained concerning the property in question.

4. The respondents appeared upon service of notice in the present Writ Petition.

5. Mr. Kantak, learned Counsel appearing for the respondent no.1 stated on instructions, that the said respondent is ready to leave an access to the extent of 3 mts, as directed by the Director of Panchayats in the aforesaid judgment and order dated 3.7.2015. This Court had adjourned this petition on two occasions on the basis of the aforesaid statement made on behalf of the respondent no.1. Today when the petition is called out for hearing, the learned Counsel for the petitioners submits that he has instructions not to agree for disposal of the petition on the basis of the aforesaid statement.

6. It is significant that the respondent no.1 had filed the Civil Revision Application under Section 201(B) of the aforesaid Act before the District Court to challenge the aforesaid judgment and order dated 3.7.2015, passed by the Director of Panchayats and now with the passage of time the respondent no.1 has consciously instructed his counsel to make a statement that he is agreeable to leaving access of 3 mts, as directed in the said judgment and order of the Director of Panchayats. This, effectively renders the Civil

Revision Application pending before the District Court itself infructuous.

7. In fact, the learned Counsel appearing for the respondent no.1 has instructions to state that the said respondent is withdrawing the Civil Revision Application filed before the District Court.

8. Once the aforesaid statement is made, nothing remains in the present Writ Petition, for the reason that the order challenged in the present Writ Petition is an order passed by the District Court condoning the delay in filing the revision application. When the respondent no.1 has made a statement before this Court that he is withdrawing the Civil Revision Application itself filed before the District Court, obviously, this Court is no longer called upon to decide as to whether the delay was properly condoned by the District Court or not.

9. In view of the above, the Writ Petition is disposed of by recording the statement made on behalf of the respondent no.1 that he shall provide access of 3 mts as per clause (4) of the judgment and order dated 3.7.2015, passed by the Director of Panchayats. On the statement made on behalf of respondent no.1, it is recorded that the Civil Revision Application filed by the

respondent no.1 before the District Court bearing Civil Revision Application no.5 of 2019 stands withdrawn. Accordingly, the said Civil Revision Application stands disposed of.

10. Nothing remains to be examined in the present Writ Petition and accordingly, the Writ Petition is disposed of as having become infructuous.

11. It is made clear that the order passed today is restricted to the present Writ petition and that if there are any other proceedings pending between the parties, they shall be decided on their own merits in accordance with law, uninfluenced by the order passed today in this Writ Petition.

MANISH PITALE J.