

Maria S.

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.85 OF 2022

Durgabai Shrikant Sinai Kundaikar thr. POA,
Krishnakant M. Kamat **..Petitioner**

Versus

State of Goa thr. Chief Secretary And 11 Ors. **...Respondents**

Mr. Jatin Ramaiya, Advocate for the Petitioner.

Mr. Devidas J. Pangam, Advocate General with Mr. Neehal S. Vernekar, Additional Government Advocate for the Respondents No.1, 3, 4, 5, 6 and 7.

Mr. E. Dias, Advocate for the Respondent No.10.

Respondent No.10 present in person.

**CORAM: M. S. SONAK &
R. N. LADDHA, JJ.**

Date: 16th March, 2022

P.C.

Heard Mr. Ramaiya, learned counsel for the petitioner, Mr. Neehal Vernekar, learned Additional Government Advocate for the respondents No.1, 3, 4, 5, 6 and 7 and Mr. E. Dias, learned counsel for the respondent No.10 who is, incidentally, present in Court in person.

2. Mr. Ramaiya, files an affidavit and points out that the Panchayat has already been served. However, despite our order dated 09.03.2022 there is no appearance on behalf of the Panchayat.

3. The petitioner's main grievance is that the respondents No.1 to 7 have not taken any action against some construction activity allegedly undertaken by respondents No.8 to 12 which, according to the petitioner, is illegal and unauthorised.

4. Mr. Ramaiya points out that the respondents No.8 to 12 are siblings. Mr. E. Dias, learned counsel for the respondent No.10 states that presently at the site no construction activity or development is taking place. This position is reiterated by Mr. Athony alias Tony Fernandes who is present in the Court. This statement is accepted.

5. The petitioner has placed on record a stop work notice dated 28.02.2022 issued by the Panchayat addressed to respondent No.12. The stop work notice not only requires the respondent No.12 to stop the construction immediately but further requires the said respondent to produce relevant documents or to show cause as to why action should not be initiated under the provisions of the Goa Panchayat Raj Act,

1994 (said Act).

6. The aforesaid indicates that the Panchayat has initiated action in the matter. The Panchayat is now directed to dispose of the show cause notice as expeditiously as possible and in any case within 2 months from the date the petitioner files an authenticated copy of this order before it.

7. Though, the stop work notice-cum-show cause notice is not directed against the respondents No.8, 9 10 and 11, even the said respondents are at liberty to respond to the same in case they are interested in construction and development at the site. The Panchayat should afford opportunity of hearing to all such respondents, if they so desire, and thereafter, take appropriate decision on the show cause notice and the complaint of the petitioner. In the peculiar facts of the present case, even the petitioner can be granted opportunity of hearing by the Panchayat.

8. Until the show cause notice is disposed of by the said Panchayat, the respondents No.8 to 12 shall not proceed with any construction or development activity at the site. This is because of the stop notice dated 28.02.2022 that has been issued to the respondent No.12.

9. This Court has not gone into the issue of legality or otherwise of the construction or development. That will be a matter for the Panchayat to decide. Therefore, all contentions of all parties are expressly left open for determination by the Panchayat.

10. With the aforesaid directions, this petition is disposed of.

11. All concerned to act based on the authenticated copy of this Order.

R. N. LADDHA, J

M. S. SONAK, J