

Vinita

IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO. 314 OF 2022.

SATELLITE SYNDICATE, REP. BY ... Petitioner.
PARTNER RAJESH MOHAN GAUNKAR
VS
STATE OF GOA THR. CHIEF SECRETARY ...Respondents.
AND ANR

Mr. P. Vernekar and Ms. C. Lobo, Advocates for the petitioner.

Mr. H. D. Naik and Mr. A. D. Naik, Advocate for the respondent no.2.

Mr. S. Priolkar, Addl. Govt. Advocate for the respondent no.1.

CORAM: G. S. KULKARNI, J.
DATE: 12 OCTOBER 2022.

P.C.:

1. The order impugned in this petition is an order dated 28 January 2022 passed by the Managing Director, Goa Housing Board on the show cause notice dated 23.2.2015 issued to the petitioner. By the impugned order the allotment dated 17.09.2010 in favour of the petitioner in respect of plot no. 102/04 admeasuring 876 sq.mts has been cancelled with a further direction that the amount deposited or paid towards the registration, allotment, or purchase of the said plot

shall be refunded to the petitioner without any interest.

2. The consequence of such order necessarily would be that by virtue of cancellation of said allotment, the occupation of the said plot in question would be not a legal occupation. Thus, such power is clearly a power exercised under Section 61 of the Goa Housing Board Act, 1968. Section 64 of the Act provides for a remedy of appeal to any person aggrieved by any order passed by the competent authority under Section 61/ 62 to be filed within one month from the date of the service of the notice under Section 61 or 62 of the Act. The Appeal lies to the State Government. The present petition came to be filed on 11 July 2022.

3. In my opinion, as an alternate remedy is available to the petitioner to assail the impugned order passed by the competent authority, it would be appropriate that the petitioner is relegated to such alternate remedy. The learned Counsel for the petitioner has fairly accepted this position and states that the present petition itself be permitted to be presented before the Appellate Authority as an appeal. However, let the same be presented with a formal appeal memo.

4. As the petitioner was bonafide pursuing the present

proceedings, let the appeal as may be filed by the petitioner be entertained by Appellate Authority without any objection on the limitation.

5. It is submitted by the learned counsel for the petitioner that since last about 12 years, the petitioner is in possession of the plot in question, hence, an irreparable prejudice would be caused to the petitioner if the impugned order is given effect and/or executed. Considering such situation, in my opinion, till the appeal is heard and disposed of by the Appellate Authority, the impugned order shall be not acted upon by the respondents. The petition is accordingly required to be disposed of by following order:-

- i. The petitioner shall present this petition along with an appeal memo within a period of two weeks from today before the appellate authority.
- ii. The impugned order dated 28 January 2022 shall not be acted upon till the final disposal of the appeal.
- iii. Let the appeal be decided as expeditiously as possible within a period of three months from the date this appeal is presented before the Appellate Authority.
- iv. It is clarified that in the event the appeal is not filed as directed above in paragraph 5(i) the protection granted in paragraph 5(ii) above shall cease to operate.
- v All contentions of the parties on merits are expressly kept open.

6. Disposed of in the above terms.
7. No costs.

G. S. KULKARNI,J.