

Maria S.

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.415 OF 2022

GOPAL VITHAL BHOLNEKAR AND ANR ... PETITIONERS

Versus

THE DEPUTY TOWN PLANNER AND 6 ORS ... RESPONDENTS

Mr. A. F. Diniz, Senior Advocate with Mr. Dharmanand Vernekar and Ms. Fawia Mesquita, Advocates for the Petitioners.

Mr. Prashil Arolkar, Additional Government Advocate for Respondents No.1 to 3.

Ms. Maria Rosette Pereira, Advocate for Respondent No.4.

Mr. Pranay A. Kamat with Ms. Mafida Shaikh, Advocates for Respondent No.5.

**CORAM:- M. S. SONAK &
BHARAT P. DESHPANDE, JJ.**

DATED :- 3rd October, 2022

P.C.

Heard Mr. A. F. Diniz, learned Senior Advocate with Mr. Dharmanand Vernekar and Ms. Fawia Mesquita, learned counsel for the petitioners, Mr. Prashil Arolkar, Additional Government Advocate for respondents No.1 to 3, Ms. Maria Rosette Pereira, learned counsel for respondent No.4 and Mr.

Pranay A. Kamat with Ms. Mafida Shaikh, learned counsel for respondent No.5.

2. The petitioners, who are closely related to respondents no.5, 6 and 7, by filing this petition, have challenged the NOC issued by the Deputy Town Planner on 07.06.2022 (Annexure-A). In terms of this NOC, respondent no.5, 6 and 7 have been permitted to construct a soak-pit at the site in question.

2. Mr. Diniz, learned Senior Counsel, on instructions, made it clear that the petitioners were not challenging the NOC dated 23.05.2022 issued by the Goa Coastal Zone Management Authority (GCZMA) but that they were relying on this NOC to contend that its conditions were being breached by respondents no.5, 6 and 7. This position is clarified because, in terms of prayer clause (c) of the petition, there appears to be challenge to the order of GCZMA dated 23.05.2022.

3. Admittedly, the petitioners, have instituted a civil suit against the respondents no.5, 6 and 7 which is pending adjudication. In the said civil suit, the petitioners have also applied for interim reliefs, inter alia, on the construction of the soak-pit for which NOC has been issued by the Deputy Town Planner.

4. Mr. Diniz submits that the objections filed by the petitioners were not considered by the Deputy Town Planner before the grant of impugned NOC. The respondents purported to pass off a well as some pit and upon such misrepresentation, have obtained the NOC. Mr. Diniz submits that there are documents which show the nuisance being caused or would be caused if a soak-pit is permitted at the site.

5. On considering the rival contentions and the material on record, we find that the issues raised will involve adjudication into seriously disputed questions of fact. Besides, the petitioners have already instituted a civil suit in which they have applied for interim relief. Therefore, it would not be appropriate for us to entertain such private disputes involving disputed questions of fact in exercise of our extraordinary jurisdiction under Articles 226 and 227 of the Constitution of India.

6. If it is the petitioners' case that the terms and conditions subject to NOC being issued are being violated, then, it is open to the petitioners to point out this issue to the appropriate forum. These are basically private disputes between relatives/neighbours. The writ jurisdiction of this Court cannot be invoked for settling such private disputes involving disputed questions of fact.

7. For the above reasons, we dismiss this petition with liberty to the parties to pursue their proceedings before the civil Court.

BHARAT P. DESHPANDE, J.

M. S. SONAK, J.

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