

Amrut

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.457 OF 2022

DARSHAN VINAYAK MADKAIKAR ... Petitioner

Versus

THE DEPUTY DIRECTOR OF
PANCHAYAT (SOUTH) AND 5 ORS. ... Respondents

Mr. S. D. Padiyar, Mr. Mahesh Raikar and Mr. P. Shirodkar, Advocates for the Petitioner.

Mr. D. Pangam, Advocate General with Mr. S. Parab, Additional Government Advocate for Respondent Nos. 1, 2 and 4.

Mr. Nikhil Vaze, Advocate for Respondent No.3.

Mr. S. Karpe and Mr. Anand Shirodkar, Advocates for Respondent No.5.

Mr. J. Godinho and Mr. M. Jalmi, Advocates for Respondent No.6.

Mr. Madhusudan Lawande, Secretary of Respondent No.6 present in the Court.

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

DATED: 21st DECEMBER 2022

P.C.:

1. After this matter was argued for some time, the learned counsel for the parties request the Court to dispose of this petition by the following agreed order:-

(a) Respondent No.6 will demolish the entire first floor of the subject structure including the columns within one month from today;

(b) Mr. Lawande, Secretary of Respondent No.6 who is present in the Court has given an undertaking on behalf

of Respondent No.6 to this effect. This undertaking is accepted as an undertaking to the Court and Respondent No.6 is directed to comply with the same accordingly;

(c) The President and the Secretary of Respondent No.6 to file a formal written undertaking in the above terms, in this Court within a week from today. Before this undertaking is filed, a draft should be furnished to Mr. Padiyar, learned counsel for the Petitioner;

(d) If for any reason, Respondent No.6 avoids compliance with this undertaking then, Respondent No.3-Panchayat and the Deputy Director of Panchayats will ensure that not only the first floor of structure but the entire structure should be demolished at the cost of Respondent No.6. Such demolition to be completed before 05.02.2023. This would be without prejudice to the action for breach of undertaking;

(e) In so far as the ground floor of the subject structure is concerned, the proceedings are already pending before the Deputy Director of Panchayats i.e. Case No. DDPS/ILLEGAL-CONST/46/2022/1617/2021. The Respondent No.6 to be impleaded in these proceedings. The Deputy Director to dispose of these proceedings within two months from today after granting opportunity of hearing to all the parties. These proceedings will now be restricted to the ground floor of the subject structure only provided the undertaking in clause (b) is complied. If not, the consequences in clause (d) will follow;

(f) The Deputy Director should dispose of these proceedings on its own merits and in accord with law;

(g) All contentions of all parties in this regard are expressly kept open.

2. Mr. Godinho, on instructions, from Respondent No.6 states that the proceedings filed by Respondent No.6 before the Additional Director of Panchayats will be withdrawn with liberty to pursue the matter before the Deputy Director of Panchayats. Accordingly, the proceedings before the Additional Director of Panchayats-II, South, Margao Goa, being ADP-II/P.A. No.190/2022/753 stands disposed of as withdrawn. The Additional Director to formally dispose of the said proceedings as withdrawn.

3. Mr. Padiyar, learned counsel for the Petitioner does not press the relief in terms of prayer clause (b) of the petition as the Additional Director of Panchayats has already passed a judgment and order dated 22.11.2022 in this regard. However, at the request of Mr. Padiyar, the Petitioner is granted liberty to take out such proceedings as may be advisable concerning the said judgment and order. Liberty in this regard is granted.

4. Respondent No.6 should file a compliance report together with photographs in this Court by 23.01.2023.

5. Though the petition is now disposed of, place the matter for reporting compliance on 30.01.2023.

BHARAT P. DESHPANDE, J

M. S. SONAK, J