

Amrut

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.611 OF 2022

SUDIN KAMAT AND 7 ORS.

... Petitioners

Versus

STATE OF GOA THR. CHIEF
SECRETARY AND 2 ORS.

...Respondents

Mr. Sahish Mahambrey, Advocate for the Petitioners.

Mr. D. Pangam, Advocate General with Mr. S. P. Munj, Additional
Government Advocate for Respondent Nos. 1 and 3.

Mr. P. A. Kamat, Advocate for Respondent No.2.

CORAM:

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

DATED:

21st DECEMBER 2022

P.C.:

1. Heard Mr. Mahambrey, learned counsel for the Petitioners,
Mr. D. Pangam, learned Advocate General who appears along with
Mr. S. P. Munj, learned Additional Government Advocate for
Respondent Nos. 1 and 3 and Mr. P. A. Kamat, learned counsel for
Respondent No.2.

2. The Petitioners seek the following substantive reliefs by
instituting the present petition under Articles 226 and 227 of the
Constitution of India.

“(a) For judgment and order in the nature of Writ of Mandamus or any other Writ or direction directing the Respondent No.2 to comply with the directions of Respondent No.3 as per minutes of the meeting held on 02/12/2021.

(b) For judgment and order/notice in the nature of Writ of Certiorari or any other Writ quashing the Order dated 11/11/2022 passed by the Respondent No.2 in Ref. No.F4/CCP/ENG/NOTICE/2022-23/SA/3755.”

3. In so far as the relief in terms of prayer clause (b) is concerned, we note that the Commissioner of CCP vide impugned notice/order dated 11.11.2022, after adverting to certain background material has only quoted the provisions of Section 272 of the City of Panaji Corporation Act, 2002 (the CCP Act) and after that, issued the following directions to the owners/occupiers of the concerned structures:-

“The owners/occupiers of the aforesaid structures are hereby directed to comply with the said provisions.

Failing which the Corporation of the City of Panaji will initiate necessary action in accordance with law.”

4. Section 272 of the CCP Act which the impugned notice/order quotes, reads as follows:-

“272. Removal of building in dangerous state.— (1) *If, in the opinion of the Commissioner, any building, wall, structure or anything affixed thereto is in a dangerous state, the Commissioner may, by a notice in writing, require the occupier or owner thereof forthwith either to demolish or remove the*

building, wall, structure or anything affixed thereto or to cause such repairs to be made thereto as the Commissioner considers necessary for the public safety; and if the danger appears to him to be imminent, he may forthwith take such steps as may be required to avert such danger, including the forcible removal without notice from such building of all the occupiers thereof and their property.

(2) Any expenses incurred by the Commissioner under sub-section (1) shall be paid by the owner of such building, wall, structure, or anything affixed thereto.

(3) Except with the permission in writing of the Commissioner no person shall without sufficient cause enter into or remain in any building from which the occupier and his property has been removed under sub-section (1).”

5. Thus, the impugned notice/order merely directs the owners/occupiers of the concerned structures to comply with the said provisions. The Constitutional Court can certainly not come in the way of the Corporation seeking to enforce or direct the parties to enforce the provisions of Section 272 of the CCP Act. Accordingly, there is no illegality in the issue of the impugned notice/order dated 11.11.2022 necessitating the exercise of our Certiorari jurisdiction.

6. Mr. Kamat, learned counsel for the CCP points out that the building in question is in a dangerous state and the owners of the building apparently consented to take measures as provided under Section 272 of the CCP Act. He submits that the Petitioners are occupants of the structures, who are resisting compliance. He points out that there is already a civil suit pending between the owners and

some of the occupiers of the building in question. Thus, if there are any issues between the owners and the occupiers, the Civil Court is already seisin of the matter.

7. In so far as the relief in terms of prayer clause (a) of the petition is concerned, Mr. Mahambrey, on instructions now states that he does not press for this relief.

8. Accordingly, this petition is dismissed. There shall be no order for costs.

BHARAT P. DESHPANDE, J

M. S. SONAK, J

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