

Maria S.

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.127 OF 2023

Keith D'Souza

... Petitioner

Versus

Anna Francisco D'Souza
Pereira And 8 Ors.

... Respondents

Mr Vilas G. Pavithran, Advocate for the Petitioner.

CORAM: M. S. KARNIK, J.

DATED : 25th APRIL 2023

P.C.:

1. Heard learned counsel for the petitioner.
2. The challenge in this petition is to the order dated 12.11.2021 passed by the Secretary for Urban Development, Appellate Authority, Government of Goa remitting the matter to the Commissioner, Corporation of the City of Panaji for a fresh hearing. The petitioner also challenges the judgment and order dated 03.03.2022 passed by the Corporation of City of Panaji pursuant to such remedy by the Secretary vide order dated 12.11.2021.
3. The petitioner is the complainant. The petitioner alleged that the respondents no.1 to 7 carried out unauthorised construction activities. Learned counsel for the petitioner submits that the petitioner was not heard by the Secretary or by

the Commissioner before the impugned order was passed though the petitioner is the complainant.

4. Learned counsel for the petitioner further submits that though the Commissioner, Corporation of City of Panaji, directed the respondent to apply for regularisation and obtain NOC for the said structure from the concerned authorities within a period of 3 months, no regularisation has been obtained and the Corporation of the City of Panaji has not initiated any action in terms of the said order.

5. In my opinion the petition is misconceived. The order under challenge is directing the respondent to apply for regularisation and in case the structure is not regularised or no application is made, the Corporation of the City of Panaji has to initiate appropriate action as per the provisions of the Corporation of the City of Panaji Act.

6. The petitioner has approached this Court at a belated stage challenging the order passed by the Secretary remanding the matter back to the Commissioner. The Commissioner has decided the matter. In any case, no prejudice is caused to the petitioner as the petitioner can always avail of the appropriate remedy and resort thereto in case the order passed by the Commissioner, Corporation of the City of Panaji dated 03.03.2022 is not implemented. It is not possible for this Court, in challenge to the impugned order, to direct the Commissioner to implement the order. The remedy lies elsewhere. Moreover, the Corporation of the City of Panaji, having directed regularisation, has obviously proceeded on the

footing that the structure is unauthorised. In such circumstances, the petitioner has a remedy under Section 358 of the Corporation of the City of Panaji Act, 2002, in case the petitioner, if at all, is aggrieved by the impugned order dated 03.03.2022

7. I, therefore, decline to interfere in this petition. Keeping all contentions of the petitioner open to enable him to approach the appropriate forum, the petition is rejected. No order as to costs.

M. S. KARNIK, J.