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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 389 OF 2021

Mr. Jose Rebello, son of Francisco
Rebello, 70 years of age, r/o H. No.
550, Orel, Assolna, Salcete-Goa. ... Petitioner

Vs.

1. Mrs. Epimaca Carmina Goes e
Rebello alias Effy Carmelina
Goes, widow of Mr. Inacinho
Marcelino Flaviano Rebello,
major of age,
2. Mr. Walter Francis Rebello,
major of age,
Both r/o H. No. 632/1, Ravora,
Navelim, Salcete-Goa.
3. Mrs. Placide Dolsy Rebello,
major of age,
r/o H. No. 632/1, Ravora,
Navelim, Salcete-Goa.
4. Village Panchayat of Assolna,
represented herein by its
Sarpanch/Secretary, having
office at Assolna, Salcete-Goa. ... Respondents

Mr. Ashwin D. Bhobe with Ms. Ramona Prazares,
Advocates for the Petitioner.

Mr. R.G. Ramani, Senior Advocate with Mr. Pranav Shenvi
Kakodkar, Advocate for Respondent Nos. 1, 2 and 3.

Mr. Zeller D'Souza, Advocate for Respondent No. 3.

CORAM: BHARAT P. DESHPANDE, J.

RESERVED ON: 9th NOVEMBER 2023

PRONOUNCED ON: 7th DECEMBER 2023

JUDGMENT:

1. Heard Mr. Ashwin D. Bhobe for the Petitioner, learned Senior Counsel Mr. Ramani, who appears along with Mr. Pranav Shenvi Kakodkar for Respondent Nos. 1, 2 and 3 and Mr. Zeller D'Souza for Respondent No. 4.

2. Rule. Rule is made returnable forthwith. Heard the matter finally at the stage of admission itself with the consent of the parties. Besides, by order dated 07.09.2022, it was clarified that an endeavour will be made to hear the parties finally at the stage of admission itself. Accordingly, the parties were put to notice.

3. The Petitioner challenges the judgment dated 04.01.2020 in Civil Revision Application No. 20 of 2018 passed by the Adhoc District Judge-1, FTC, Margao, Goa, wherein the Revision filed by Respondent Nos. 1, 2 and 3 under Section 201-B of Goa Panchayat Raj Act, 1994 challenging the demolition notice, was allowed and the demolition notice dated 11.02.2015 issued by the Village

Panchayat of Assolna/Respondent No. 4 was quashed and set aside.

4. The Petitioner and Respondent Nos. 1, 2 and 3 are related and accordingly, occupying the house bearing no. 550 existing in the village Assolna. Respondent Nos. 1, 2 and 3 are in occupation of part of the residential house bearing house no. 550 (old house no. 102) situated at Assolna and the remaining part is occupied by the Petitioner.

5. A complaint was lodged by the Petitioner on 17.02.2014 with the Panchayat/Respondent No. 4 thereby intimating that Respondent Nos. 1, 2 and 3 carried out an illegal extension to house no. 550 without any permission or no objection from the co-owner. Subsequently, action was taken by the Panchayat by issuing a show cause notice on the basis of site inspection. Since the reply filed by Respondent Nos. 1, 2 and 3 was not found satisfactory, a demolition order was passed on 11.02.2015, on the basis of the resolution of the Panchayat dated 16.01.2015.

6. Respondent Nos. 1, 2 and 3 challenged such demolition order before the Additional Director of Panchayats by filing Panchayat Appeal No. MAR-1/16/ 2015. The Additional Director

of Panchayats, South Goa, Margao vide its judgment and order dated 26.02.2018 partly allowed the said Appeal and directed the present Respondent Nos. 1, 2 and 3 to take ex-post facto approval from the concerned Authority to regularize their structure within a period of 90 days from the date of receipt of the said order and thereafter, to place such approval before the Panchayat to decide the same. The order further shows that if Respondent Nos. 1, 2 and 3 failed to obtain such regularization, the Panchayat shall initiate action to demolish the extension to the existing house, in accordance with law. While deciding such an Appeal, the Additional Director of Panchayats observed that illegal extension was carried out to the old structure with a concrete slab of approximately 60 square metres north and east sides without obtaining permission/NOC or without any license/approval from the Panchayat Authority.

7. Respondent Nos. 1, 2 and 3 being aggrieved by such order passed by the Additional Director of Panchayats, preferred Revision under Section 201-B of the Panchayat Raj Act, before the learned District Court, South Goa, Margao. The learned Adhoc District Judge-1 vide the impugned judgment dated 04.01.2020 allowed the said Revision and quashed the order of the Additional Director of Panchayats as well as the demolition notice dated

11.02.2015. While doing so, the Revisional Court relied upon the case of **Mr. Luciano Leandro Vs. The State of Goa** passed in Writ Petition No. 832 of 2011 and further observed that there is no record to show as to when such construction was carried out and it was an old construction.

8. Mr. Bhobe appearing for the Petitioner submitted that the impugned order passed by the Revisional Court is perverse and illegal as it exceeds jurisdiction. He would further submit that the Revisional Court considered it as a Civil Suit or an Appeal and discussed the aspect about the date of existence of such structure which is not permissible while considering Revision under Section 201-B of the Panchayat Raj Act.

9. Mr. Bhobe would then submit that the decision relied upon by the Revisional Court is completely in a different context and not applicable to the present matter. It is submitted that applying the decision which is distinguishable and not on the aspect of revisional jurisdiction, would amount to perversity.

10. Mr. Bhobe would then submit that the observations of the Revisional Court in paragraph 20 that the Panchayat has passed an order is again perverse on the face of it as Section 66 of the

Panchayat Raj Act deals with a demolition notice. He, therefore, would submit that the compliance of principles of natural justice exists in the matter when the Panchayat called upon Respondent Nos. 1, 2 and 3 to show cause. He would submit that the only requirement which Respondent Nos. 1, 2 and 3 were supposed to comply with by producing the license from the competent Authority for carrying out such construction. The Act nowhere provides for giving oral hearing except to produce the license. He would submit that in case the parties produce the license from the competent Authority, the show cause notice is required to be dropped. He would further submit that the Panchayat under Section 66 of the Panchayat Raj Act is duty bound to issue demolition notice, in case no permission is produced by the parties, who are called upon to do so. He would then submit that Section 66 of the Panchayat Raj Act is not a proceeding conducted by the quasi-judicial Authority and therefore, there is no question of any hearing. He would then submit that even the Panchayat is not required to examine as to when such illegal construction was carried out. The only requirement is that the construction is illegal and that the parties are given an opportunity to show cause.

11. Mr. Bhobe would then submit that the learned Revisional Authority exceeded its jurisdiction in reversing the order passed

by the first Appellate Court and by quashing the demolition notice when Respondent Nos. 1, 2 and 3 failed to produce any documents to show that they were permitted by the concerned Authority to carry out such extension. He would further submit that the reply to the show cause notice clearly revealed/admitted that the illegal extension was carried out by Respondent Nos. 1, 2 and 3, though claimed that such extension was 20 years back. He, therefore, claimed that the Panchayat got power to take action as and when it is brought to the notice about the illegal construction.

12. Mr. Bhobe placed reliance on the decision of the Division Bench of this Court in Public Interest Litigation (Suo Motu) No. 2 of 2022 dated 26.04.2023 to canvass his contention that the Panchayat is duty bound to take action against illegal structure under Section 66 of the Panchayat Raj Act and that the Panchayat has to determine as to whether it had issued any construction license for carrying out such construction/extension. According to him, the sole criteria for the Panchayat deciding under the said provisions would be whether it has issued a valid building license under the Act. Once it is proved that no license was issued by the Panchayat, the construction/extension becomes illegal.

13. Mr. Bhobe placed reliance on the decision of the learned Single Judge of this Court in the case of **Smt. Milagrina**

D'Mello Vs. Shri John Gonsalves (Writ Petition No. 524 of 2022 dated 18.10.2023) to further canvass his contention regarding limitation and the revisionary powers.

14. Per contra, Mr. Ramani appearing for Respondent Nos. 1, 2 and 3 would submit that the dispute is between the co-occupants of the house, who are related by blood. It is submitted that such a complaint was lodged after a period of more than 20 years from the date of carrying out the repairs to the house. He would submit that no cause of action accrues in favour of the Petitioner, in case if he would have filed a civil suit and therefore, the Panchayat could not have taken any action against such complaint. He would further submit that the fact that no complaint was filed at the time of the alleged extension would clearly reveal that there was no illegality and that the Petitioner himself was agreeable for such repairs.

15. Mr. Ramani would then submit that there is no illegal construction carried out by Respondent Nos. 1, 2 and 3, but the original house had mud walls and due to the development of cracks, the same were repaired on the same plinth area about 20 years back. Such repairs were carried out without extending the plinth area. Mr. Ramani would submit that every illegality need

not be considered for the purpose of taking action under Section 66 of the Panchayat Raj Act.

16. Mr. Ramani would then further submit that the Application for regularization is already pending and if the Petitioner is so aggrieved, he may prefer a civil suit as the transgression report prepared by the Panchayat Authority nowhere shows what the plinth area of the earlier existing house and the alleged extension. He would further submit that the Revisional Court considered all these aspects and decided the matter by observing that no material was placed to prove the illegal extension of the house. Finally, he claimed that the complaint was filed by the Petitioner only when relations between the Petitioner and his deceased brother as well as Respondent Nos. 1, 2 and 3 became strained. In such circumstances, it is submitted that no purpose would be served in disturbing the order passed by the Revisional Court.

17. Mr. Ramani placed reliance on the case of **Chairman and MD, NTPC Ltd. Vs. Reshmi Constructions, Builders and Contractors, (2004) 2 SCC 663** to support his contention that the Application for regularization filed before the concerned Authority is without prejudice to the rights of Respondent Nos. 1,

2 and 3 to defend the present proceedings and to label such construction as illegal.

18. Mr. Zeller D'Souza submits that there is no limitation to file a complaint and the Panchayat is duty bound to entertain such complaints as and when filed. He would further submit that the dispute raised in the present matter is not between the private parties, but, basically in connection with illegal constructions, for which, the Panchayat is entitled to take action. He would further submit that the principles of natural justice were followed by the Panchayat and the first Appellate Authority. He then claimed that the regularization Application was filed only on 26.03.2018 and thereafter, the Revision was filed under Section 201-B before the Revisional Court.

19. The rival contentions now fall for determination.

20. The Petitioner filed a complaint with the Panchayat/ Respondent No. 4 and a copy of it was marked to the Block Development Officer (BDO). The said complaint disclosed that Respondent Nos. 1, 2 and 3 carried out illegal construction/ extension of house no. 550, without the license or permission of the competent Authority and NOC from the co-owner. The record

shows that since the Panchayat/Respondent No. 4 failed to take action, the BDO was directed to carry out the site inspection. Accordingly, vide letter dated 14.10.2014, the BDO, Salcete, Margao, Goa intimated the Deputy Director of Panchayats, South Goa, Margao about the site inspection carried out on 25.09.2014 in the presence of the Petitioner, Respondent No. 1, the Sarpanch, the Ward Member and the Secretary of the Village Panchayat.

21. During such inspection, the Petitioner (complainant) identified and showed the extension to the existing house of Respondent No. 1. The inspection team carried out the measurements of the extension of the existing house and prepared a sketch, the checklist, panchanama as well the attendance sheet bearing the signatures of respective parties. These signatures were obtained in the presence of the BDO. The sketch was prepared by the Junior Engineer from the office of the BDO, Salcete, Goa. In the sketch, the existing old house as well as the extension with its dimensions are clearly depicted.

22. When these documents were furnished to the Panchayat, the show cause notice was issued to Respondent Nos. 1, 2 and 3, which is dated 29.12.2014. In the show cause notice, reference is made to the memorandum dated 29.10.2014 received from the office of

the Deputy Director of Panchayats regarding the illegal extension/construction of the house bearing no. 550 together with the inspection report received from the office of the BDO, Salcete, Goa and panchanama, the checklist as well as the sketch. All these documents were attached along with the show cause notice. Respondent Nos. 1, 2 and 3 were called upon to show cause within a period of seven days as to why Panchayat should not take action against such illegal construction. This notice was issued under Section 66(4) of the Panchayat Raj Act.

23. Respondent Nos. 1, 2 and 3 filed their reply to the show cause notice which is dated 05.01.2015. In the reply, Respondent Nos. 1, 2 and 3 claimed that they are occupying a part of the residential house no. 550 (new house no. 102). The said house is more than 50 years old and the part occupied by them had mud walls, which were developing cracks. Thus, to make it habitable, Respondent Nos. 1, 2 and 3 about 20 years back re-constructed the residential house with permission of the Panchayat and also with the consent of the co-owner i.e. the Petitioner and while doing so, they did not increased the plinth area.

24. The show cause notice, the reply along with all the necessary documents were placed in the meeting of the Panchayat for

consideration. Vide resolution no. 3(26) dated 16.01.2015, the Panchayat found that there is an illegal extension of the old house without obtaining any permission/license and that the reply filed by Respondent Nos. 1, 2 and 3 was not found satisfactory and accordingly, it was resolved to issue demolition orders.

25. The Panchayat vide its demolition order dated 11.02.2015, directed Respondent Nos. 1, 2 and 3 to demolish the illegal extension carried out to the old house no. 550 within a period of 15 days failing which the Panchayat will be compelled to requisite a demolition squad and recover the costs of demolition.

26. The demolition notice is admittedly issued under Section 66(3)(b). This provision specifically refers to a “written notice” requiring the demolition to be carried out within a reasonable period. Thus, it is clear that the words “written notice”, are referred to under Section 66(3), which the Panchayat is entitled to issue, calls upon the erring parties to demolish a building, alteration or addition as the case may be. There is no reference to any “order” to be passed by the Panchayat while directing such demolition. However, it specifies a written notice to be issued for carrying out demolition.

27. Section 66 of the Panchayat Raj Act is basically concerned with the regulation and erection of buildings within the jurisdictional limits of the Panchayat. Sub-section (1) provides that subject to the Rules as may be prescribed under the Act, no person shall erect any building or alter or add to any existing building or re-construct any building without the written permission of the Panchayat.

28. Section 66(3) of the Panchayat Raj Act then provides that whenever any building is erected, added to or reconstructed without any such permission or in any manner contrary to the Rules prescribed under sub-section (1) or any conditions imposed by the permission granted, the Panchayat may direct that the building, alteration or addition be stopped or by a written notice require within a reasonable period to be specified therein, such building alteration or addition to be altered or demolished.

29. Section 66(4) of the Panchayat Raj Act then provides that in any event of non-compliance with terms of any notice under sub-section (3) within a period specified in the notice, it shall be lawful for the Panchayat to take such action as may necessary for the completion of the act thereby required to be done and all the expenses therein incurred by the Panchayat shall be paid by the

person upon whom the notice was served and shall be recoverable as if it were a tax imposed under this Act.

30. Section 66(5) of the Panchayat Raj Act deals with the situation where the Panchayat fails to demolish the building which is erected, added to or reconstructed without the permission of the Panchayat or in any manner contrary to the Rules made under the Act or any conditions imposed in the permission, within a month from the date of knowledge, the Deputy Director shall assume the powers of the Panchayat under sub-section (3)(4) and (5) and take such steps as may be necessary for demolition of the building.

31. Section 66(6) of the Panchayat Raj Act provides that notwithstanding anything contained in the foregoing provisions, the BDO concerned may, by notice addressed to the person responsible, stop any construction which is being constructed in violation of the provisions of the Act or Rules or bye-laws made thereunder and refer the case to the Deputy Director of Panchayats. On receipt of such notice, such person shall forthwith stop the construction activity.

32. It does show that there is nothing in the Panchayat Raj Act to suggest that the Panchayat acting under Section 66 is required

to pass any “order”. However, it specifically refers to a written notice under Section 66(3) when it is found that such building, alteration or addition is carried out without the permission or in contradiction of the Rules or bye-laws made thereunder.

33. Thus, first of all, the question of passing any order as tried to be projected by the Revisional Court in the impugned order is out of question. The Panchayat while exercising jurisdiction under Section 66 of the Panchayat Raj Act is not acting as a Court or even, quasi-judicial Authority. The duty under Section 66 imposed on the Panchayat is only to find out that the building, alteration or addition is not carried out without any permission or in contravention of Rules or bye-laws made thereunder.

34. The powers under Section 66 of the Panchayat Raj Act are two folds, firstly, when it is brought to the notice of the Panchayat/ BDO/Director of Panchayats that any illegal construction is going on, the Authority is entitled to direct the concerned party to stop any further construction. No doubt, the site inspection in the presence of the parties is required to be carried out so as to *prima facie* come to the conclusion that the building, alteration or addition is being carried out without any license or in contravention of the conditions imposed in the license.

Accordingly, if it is observed by the Panchayat or other Authority under the Panchayat Raj Act that such building, alteration or addition is being carried out or was constructed without any licence/permission from the competent Authority or the same is being carried out or constructed in contravention of the permission granted under the license, the Panchayat is having Authority to issue a written notice requiring the said person to demolish the building, alteration or addition within a reasonable period.

35. It, therefore, provides that whenever a complaint is filed against erection of a building, alteration or addition in contravention of the provisions of the Act, license or other permission, the Panchayat is duty bound to act.

36. The question of limitation to file a complaint or to take action against such illegal construction, alteration or addition will not be attracted. There is no provision under the Panchayat Raj Act prohibiting the Panchayat from taking action against any illegal building, alteration or addition which is already constructed, but, without permission/license and in contravention of the Rules or bye-laws made thereunder.

37. The provisions of limitation would apply only to the proceedings in the Court and not for the purpose of filing a complaint against illegal construction or for taking action by the Panchayat under Section 66 of the Panchayat Raj Act. The only aspect which the Panchayat is required to consider is whether the building, alteration or addition was carried out without license/permission and if it is found that such building, alteration or addition was carried out in contravention of the provisions of the Panchayat Raj Act or in contravention of the license issued by the Panchayat, the only option is to issue written notice directing the person to demolish it within a reasonable period.

38. In the case of **Smt. Milagrina D'Mello** (supra), the learned Single Judge of this Court while considering the aspect of limitation qua the provisions of the Panchayat Raj Act, referred to the decision of the Apex Court in the case of **M.P. Steel Corporation Vs. CCE, (2015) 7 SCC 58** observed in paragraph 33 as under:

“The Revisional Authority, in making the impugned order, completely lost sight of the fact that the provisions of the Limitation Act, 1963 and the provisions in Article 137 of the Schedule to the Limitation Act, 1963, applied only to the Courts and not to the Panchayat acting under the Section 66 of the Panchayat Raj Act. Therefore, even assuming

that the petitioner's complaint was three years after the first respondent put up the construction, such complaint could not be said to have been barred by law of limitation as held by the Revisional Authority."

39. Applying the same ratio to the matter in hand, it is clear that even if the construction was carried out earlier and claimed to be old, the Panchayat is not required to be gone into the date of such construction, alteration or addition, but, is only required to consider, on being brought to its notice as to whether such construction, alteration or addition was carried out with the permission of the Panchayat i.e. the license and the same is as per the Rules and bye-laws. Once it is noticed that such building, alteration or addition was carried out without any valid license, the Panchayat is duty bound to place it before the Panchayat Body and to take necessary decisions. Before taking such decisions, principles of natural justice demand that the parties be given an opportunity to show cause/explain. Only thereafter, the Panchayat may by written notice direct the concerned parties to remove the building, alteration or addition which is found to be illegal. All parameters as discussed above were fulfilled in the present matter. Thus, the question that the construction was 20 years old is of no relevance. The only question that the Panchayat needs to look into

is whether such construction, alteration or addition, as the case may be, was carried out with the permission of the Panchayat.

40. The revisionary Authority assumes jurisdiction vide Section 201-B of the Panchayat Raj Act. The said Section reads thus:

“201-B. Revision.— (1) Save as otherwise provided in this Act, a revision shall lie against any order passed by any authority under this Act to the District Court within whose jurisdiction the subject matter of the dispute lies.

(2) Every revision application shall be filed within thirty days from the date of the order.

(3) The decision of the District Court shall be final and binding on the parties to the revision.

(4) Every such revision shall be decided as expeditiously as possible and endeavour shall be made to decide the same within a period of three months from the date on which it is filed.”

41. The above provisions clearly reveal that it starts with the words “save as otherwise provided in this Act”. Thus the revisional powers are in accordance with the provisions of the said Act. It is well settled that the revisional powers are to be exercised only in case of any perversity or illegality in the impugned orders passed by the quasi-judicial Authority. The Revisional Court is not

entitled to consider the Revision as an Appeal and to discuss the facts of the matter so as to come to any other conclusion than that of the first Appellate Court without considering the findings as perverse or illegal.

42. The reasoning of the revisionary Authority in the present case is in fact considered to be contrary to the provisions of Section 66b(3)(b) of the Panchayat Raj Act, which refers to a written notice requiring the parties to act within a reasonable period to demolish the unauthorised construction. The observations of the Revisional Court in paragraph 20 refer to an order passed under the Act. It is no doubt true that the order placed on record dated 11.02.2015 issued by the Panchayat/ Respondent No. 4 refers to a demolition order. However, the Act clearly says about the written notice. Thus, the Revisional Court was swayed away by the wording in the demolition notice dated 11.02.2015 and termed it as an order. Accordingly, the reference in paragraph 21 of the impugned order is out of context.

43. The Revisional Court referred to Section 239-C of the Panchayat Raj Act. This provision refers to the procedure with regard to the District Planning Committee. Section 239 of the Panchayat Raj Act deals with the District Planning Committee and

subsequently, Section 239-A, B and C were inserted by amendment of 1997. The procedure as adopted under Section 239-C deals with the procedure to be followed by the Officer in all inquiries, appeals and proceedings under the Act and the Rules framed thereunder. Sub-section 2 of Section 239-C then provides that every decision/order passed under this Act shall record in the form of the order, which shall state the reasons thereof.

44. First of all, it is necessary to notice that the decision was taken by the Panchayat in its resolution and the reasons are stated therein for not accepting the reply to the show cause notice. Even otherwise, the powers under Section 66 of the Panchayat Raj Act are specifically provided in Chapter III, which deals with the functions, duties and powers of the Panchayats, Sarpanch and Deputy Sarpanch. Chapter XII deals with miscellaneous aspects wherein Section 200 provides for the dissolution of Panchayats, Appeals and Revisions thereunder. Thus, it is apparent that the Revisional Court committed an error in observing that powers under Section 66 of the Panchayat Raj Act are coming within the scope of an order. There is no mention in Section 66 about the order being passed by the Panchayat. The word “order” or the “decision” referred to in Section 239-C is with respect to the quasi-judicial Authority assuming powers under the Panchayat Raj Act.

45. The Revisional Court relied on the case of **Luciano Leandro** (supra). The reference to such a decision is completely out of context. In that matter, the Petitioner challenged the order passed by the Town and Country Planning Department, by which, the technical clearance issued to the Petitioner was withdrawn. Thus, the facts in the case of **Luciano Leandro** (supra) are with regard to the provisions of the Town and Country Planning Act and not the Panchayat Raj Act. Thus, the said decision is not at all applicable to the matter in hand.

46. The Division Bench of this Court in Public Interest Litigation (Suo Motu) No. 2 of 2022 observed that complaints against illegal structures are required to be decided in terms of Section 66 of the said Act i.e. to determine whether the Panchayat has issued any construction license under Section 66 to those structures even under the Panchayat Raj Act or under the Goa (Regulation of Land Development and Building Construction) Act, 2008 or any other building regulations and bye-laws. The sole criteria for the Panchayat's decision under the said provisions would be whether it has issued a valid building license under the Act. Thus, the Panchayat is only required to find out whether there is a license issued under the Panchayat Raj Act or any other law in connection with building regulations and that such

construction is carried out as per the conditions imposed therein. In case if it is found that there is no license or permission issued by the Panchayat, the only option is to take recourse under Section 66(3)(b) of the Panchayat Raj Act.

47. In the present matter, admittedly, there is no license issued by the Panchayat in favour of Respondent Nos. 1, 2 and 3 for carrying out re-construction as alleged in their reply showing that such re-construction was carried out with the permission of the Panchayat. However, no such permission was placed along with the reply to the show cause notice. Be that as it may, the panchanama and the sketch prepared in the presence of Respondent No. 1 clearly shows that there is an existence of the original house. The dimensions of the extensions are also depicted with measurements. The sketch was prepared by the Junior Engineer from the office of the BDO, Salcete and that too in the presence of the respective parties. It is therefore apparent on the face of the record that there was an extension to the original house. Such extension was without any permission from the competent Authority. The claim of Respondent No. 1 that it was carried out 20 years back and that too with the permission of the Panchayat is not established. When the show cause notice is issued, the parties concerned are required to give reasons with

documents. If it was the case of Respondent Nos. 1, 2 and 3 that they only carried out the construction on the plinth area with permission of the Panchayat, they ought to have produced such permission.

48. It is already observed that there is no limitation for filing any complaint or taking action against the illegal construction, alteration or addition and to take any action against such complaint by the Panchayat. It will not be possible for the quasi-judicial Authority while entertaining an Appeal or Revision against demolition notice to go into such aspects for simple reasons that Section 66 only required to produce documents showing illegality of such building, alteration or addition. If the parties concerned fail to prove the legality of such structure, the Panchayat is free to take action under Section 66(3)(b).

49. For all the above reasons, the impugned judgment and order dated 04.01.2020 in Civil Revision Application No. 20 of 2018 passed by the learned Adhoc District Judge-1, FTC, Margao is hereby quashed and set aside and the order passed by the Additional Director of Panchayats dated 26.02.2018 and the demolition notice dated 11.02.2015 are re-stored.

50. It is made clear that though Respondent Nos. 1, 2 and 3 filed an Application for regularization, the concerned Authorities are free to decide such an Application independently and without being influenced by the observations made by this Court.

51. However, it is necessary to clarify here that such an Application filed for regularization is without prejudice to the rights of the parties. Further, it needs to be clarified that there is no provision under the Panchayat Raj Act for the regularization of such a structure. Be that as it may, the Authority dealing with such an Application is free to decide it in accordance with law. It further needs to be clarified that the Panchayat should not wait for the decision of the Application for executing its own order of demolition.

52. The Petition is accordingly allowed in the above terms.

53. Rule is made absolute in the above terms.

BHARAT P. DESHPANDE, J.

VAIGANKAR
ESHA SAINATH

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