

Andreza

**IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 47 OF 2023**

Ghanshyam @ Meghashyam Narayan Kaloji
@ Salgaonkar & Anr.

... Petitioners

Versus

The Village Panchayat of Querim-Tiracol, ...Respondent
Thr. Its Secretary

Mr. Rohan Desai, Advocate for the Petitioners.

CORAM: B. P. COLABAWALLA, J
DATED: 19th JANUARY 2023

ORAL ORDER

1. The above Writ Petition challenges the Order dated 05.03.2020, passed by the District Court, dismissing the Civil Revision Application No. 50 of 2017, filed by the Petitioners under Section 201-B of the Goa Panchayat Raj Act, 1994. Once and above this, the order of the Additional Director of Panchayats dated 08.08.2017 and the demolition notice/order issued by the Respondent-Panchayat dated 17.06.2013, are also assailed in the present Writ Petition.

2. The factual matrix is that on a complaint made by one Mr. Subhash Bhikaji Kaloji, a show cause notice was issued to the Petitioners regarding an illegal construction, being an extension of a first floor of approximately 50 square metres on Survey No. 22/5,

situated at Pawanwada, Querim, Pernem, Goa. By the said show cause notice, the Petitioners were called upon to show cause as to why the illegal extension ought not to be demolished. It is not in dispute that the show cause notice was duly served on the Petitioners. Despite service of the show cause notice, no reply was filed to the same. Thereafter, a hearing was also given to the Petitioners on 14.12.2012 when they were present but unable to produce any legal document justifying the construction of the extension of the first floor admeasuring approximately 50 square metres. In these circumstances, the Respondent issued a demolition Order dated 17.06.2013.

3. Being aggrieved by the aforesaid demolition Order, the Petitioners under Section 66(7) of the Goa Panchayats Raj Act, 1994, preferred an Appeal before the Additional Director of Panchayats. That Appeal came to be dismissed vide Judgment and Order dated 08.08.2017.

4. Being dissatisfied with the Order passed by the Additional Director of Panchayats, the Petitioners preferred a Civil Revision Application under Section 201-B of the Goa Panchayat Raj Act, 1994, before the District Court. The District Court, by its Judgment dated 05.03.2020, dismissed the Revision Application. It is to assail all these Orders, that the present Writ Petition is filed.

5. I have heard the learned Counsel appearing on behalf of the Petitioners. I have also carefully perused the papers and proceedings in the Writ Petition. After going through the demolition Order, the Order passed by the Additional Director of Panchayats as well as the Order passed by the District Court, I find absolutely no merit in the above Writ Petition. The Authorities below, have in great detail, narrated the facts and which clearly establish that the construction carried out by the Petitioners was not only a new construction but was without any legal sanction. Despite ample opportunities being given to the Petitioners to produce any document to show that the construction was legal, they were unable to do so. The only contention raised before the Authorities below was that this structure was years old and, therefore, they could not produce any document. This contention of the Petitioners was negated all throughout as it was found that the illegal construction was a new construction and could not be termed as being an old structure. Even before this Court, nothing is produced to even remotely suggest that the construction carried out by the Petitioners, namely, the extension on the first floor admeasuring 50 square metres, is 45 years old. I find that the Authorities below have considered all the material and thereafter come to the correct conclusion that the new construction carried out by the Petitioners is illegal and hence is required to be demolished.

6. In these circumstances, I do not find any merit in the Writ Petition, which is accordingly dismissed. However, there shall be no Order as to costs.

7. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

B. P. COLABAWALLA, J

ANDREZA PEREIRA Digitally signed by ANDREZA
PEREIRA
Date: 2023.01.20 11:08:05 +05'30'