

Esha

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 823 OF 2023

Smt. Sulochana Surendra Naik, wife
of late Shri Surendra Poco Naik, aged
51 years, resident of H. No. PMC/W/
10/30/29, Warkhandem, Ponda, Goa. ... Petitioner

Vs.

1. Ponda Municipal Council,
through Chief Officer, Ponda,
Goa.
2. Smt. Sharfunnisa Kazi, since
deceased through her legal heirs:
 - (a) Mr. Raziuddin Kazi, husband
 - (b) Parvez Raziuddin Kazi, son
 - (c) Zeenat Parvez Kazi, daughter
in law
 - (d) Ms. Fahmida Amiruddin
Kazi, daughter
 - (e) Mr. Amiruddin Shaikh, son
in law
 - (f) Miss Sayeeda Kazi, daughter,
major of age
 - (g) Mrs. Saira Salim Khatib,
daughter, major of age
 - (h) Mr. Salim Khatib, son in lawAll resident of B-49, Sairaj Park,
Shantinagar, Ponda, Goa.
3. Shri Pundalik Bablo Gawas,
Resident of H. No. 10/30/30,
Warkhandem, Ponda, Goa.

4. District Collector, South Goa.
5. The Deputy Collector of Ponda,
Ponda, Goa.
6. The Mamlatdar of Ponda Taluka,
having office at Ponda, Goa. ... Respondents

Mr. Preetam Talaulikar, Advocate for the Petitioner.

Mr. Pranav Vaze, Advocate for Respondent No. 1.

Mr. Ashwin D. Bhobe with Ms. Shaizeen Shaikh, Advocates
for Respondent No. 3.

Ms. Sulekha Kamat, Additional Government Advocate for
Respondent Nos. 4, 5 and 6.

CORAM: BHARAT P. DESHPANDE, J.

DATED: 30th NOVEMBER 2023

ORAL JUDGMENT:

1. Rule. Rule is returnable forthwith. Heard the parties finally
at the admission stage itself.

2. The Petition is filed challenging the order passed by the
Tribunal, which upheld the order of the Municipal Council for
demolition of the illegal structure.

3. Mr. Talaulikar points out that the regularization Application
filed in the year 2004 is not disposed of on merits till date. He

submits that vide reply dated 12.03.2004, the Municipal Council informed the Petitioner that her Application dated 27.02.2004 cannot be considered since the matter is pending adjudication. He submits that this is not a decision passed by the Municipal Council on the Application for regularization on merits.

4. Mr. Bhobe appearing for Respondent No. 3 submits that while passing the order of demolition dated 03.06.2019, there is reference that the regularization Application was not considered due to pending adjudication. This order refers to Civil Suit No. 36/1975 filed between the parties.

5. Learned Counsel for Respondent No. 1 submits that the Municipal Council will decide the regularization Application filed by the Petitioner in accordance with law and on its own merits within a period of one month from today. He also submits that the Petitioner as well as Respondent No. 3 will be given an opportunity to submit their written submissions.

6. Considering the above statement and the fact that the learned Tribunal also observed that the Authority must decide the regularization Application, the Petition could be disposed of by directing Respondent No. 1 to decide the Application for

regularization dated 27.02.2004 filed by the Petitioner, within one month from today and by giving an opportunity to the Petitioner and Respondent No. 3 to file their written submissions.

7. Mr. Taulikar and Mr. Bhoje submit that written submission will be filed within two weeks from today. The Chief Officer of Respondent No. 1 shall communicate the decision on the Application for regularization, within one month to the concerned parties. All contentions of all parties are kept open. It is made clear that while considering the present Petition, this Court has not considered the orders passed by the Municipal Council as well as by the Administrative Tribunal for demolition. If the Application for regularization is rejected, the respective Authorities are free to act accordingly.

8. Rule is made absolute in the above terms. Parties shall bear their own costs.

9. Parties shall act on an authenticated copy of this Order.

VAIGANKAR
ESHA SAINATH

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VAIGANKAR ESHA SAINATH
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BHARAT P. DESHPANDE, J.