

Maria S.

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 716 OF 2009

1. Mr Clifford Dias, age 36 years, Son of late Joaquim Jeronimo Dias, Occupation-business, resident of H.No.1504, r/o Orda, Candolim, Bardez, Goa.
- 2 Mr Santan Cardoz, age 54 years, son of Gonsal Amaranti Cardoz, service, r/o H. No.1749, Saipem, Candolim, Bardez, Goa. Mob.No.9822486909.
- 3 Mr Damaciano Dias, age 47 years, Occupation Business, s/o late Camilo Dias, r/o H.No.1532, Orda, Candolim, Bardez, Goa. Tel.No.6510665.

... Petitioners

Versus

- 1 The State of Goa through the Chief Secretary, having his office, at the Secretariat, Porvorim, Bardez-Goa.
- 2 The Director of Mines & Geology, Government of Goa, with his office at 'Udyog Bhavan', Panaji, Goa.

..Respondents

- 3 The chief Town Planner,
Government of Goa, with
his office at Panaji, Goa.
- 4 The Village Panchayat of
Candolim, through its
Secretary, Candolim,
Bardez-Goa.
- 5 The Village Panchayat of
Calangute, through its
Secretary, Calangute,
Bardez-Goa.
- 6 The Deputy Collector
and S.D.O., Bardez,
Mapusa-Goa.
- 7 The Mamlatdar of Bardez,
Mapusa-Goa.
- 8 The Deputy Town
Planner, Bardez, Mapusa-
Goa.
- 9 The Director General of
Police, State of Goa,
having office at the Police
Head Quarters, Panaji,
Goa.
10. The Police Inspector,
Calangute Police Station,
Mapusa-Goa.
- 11 Mr Bandevadar Mallappa,
Major, r/o House
No.82/12/C, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 12 Mr Bandevadar Laxman,
Major, r/o House
No.82/12/R, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.

- 13 Mr Beredhar Maulasab,
Major, r/o House
No.82/12/G, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 14 Mr Salim Shaik, Major,
r/o House No.82/12/H,
Voilo Vaddo, Orda,
Candolim, Bardez-Goa.
403 515.
- 15 Mr Raju Mani Naik,
Major, r/o ,
Voilo Vaddo, Orda,
Candolim, Bardez-Goa.
403 515.
16. Mrs. Cecilia Josefina
Lobo, Major, r/o House
No.1531/C, Voilo Vaddo,
Orda, Candolim, Bardez-
Goa. 403 515.
17. Mrs. Antonette Silveira,
Major, r/o House
No.1531/0, Voilo Vaddo,
Orda, Candolim, Bardez-
Goa. 403 515.
- 18 Mr Hanuman Rathod,
Major, r/o House
No.1611/1, Voilo Vaddo,
Orda, Candolim, Bardez-
Goa. 403 515.
- 19 Mr. Guru Chavan, Major,
r/o House No.1611/1/A,
Voilo Vaddo, Orda,
Candolim, Bardez-Goa.
403 515.
- 20 Mr. Hiro Chavan, Major,
r/o House No.1611/2,

- Voilo Vaddo, Orda,
Candolim, Bardez-Goa.
403 515.
- 21 Mr. Betty Ronnie
Fernandes, Major, r/o
House No.1611/3, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 22 Mr. Babu Chavan, Major,
r/o House No.1611/3/A,
Voilo Vaddo, Orda,
Candolim, Bardez-Goa.
403 515.
- 23 Mr. Pratap H. Chawan,
Major, r/o House
No.1611/4, Voilo Vaddo,
Orda, Candolim, Bardez-
Goa. 403 515.
- 24 Mr. Ganapati Chavan,
Major, r/o House
No.1611/4/A, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 25 Mr. Balur Hazarat Ali,
Major, r/o House
No.1611/4/B, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 26 Mr. Satish Nouse
Agarwadekar, Major, r/o
House No.1611/15, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 27 Mr. Subhash Rathod,
Major, r/o House
No.1611/15/A, Voilo
Vaddo, Orda, Candolim,

- Bardez-Goa. 403 515.
- 28 Mr. Daku T. Rathod,
Major, r/o House
No.1611/6, Voilo Vaddo,
Orda, Candolim, Bardez-
Goa. 403 515.
- 29 Mr. Vijay Umesh Rathod,
Major, r/o House
No.1611/7, Voilo Vaddo,
Orda, Candolim, Bardez-
Goa. 403 515.
- 30 Mr. Premsingh Rathod,
Major, r/o House
No.1611/8, Voilo Vaddo,
Orda, Candolim, Bardez-
Goa. 403 515.
- 31 Mr. Kamlakant Shirodkar,
Major, r/o House
No.1611/8/A, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 32 Mr. Subash Prabhakar
Salvi, Major, r/o House
No.1611/11, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 33 Mr. Basu Hemlo Rathod,
Major, r/o House
No.1611/12, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 34 Mr. Manu Zivlo Chavan,
Major, r/o House
No.1611/13, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 35 Mr. P. L. Anthony, Major,

- r/o House No.1611/16,
Voilo Vaddo, Orda,
Candolim, Bardez-Goa.
403 515.
- 36 Mr. Jothiram Parshuram
Chavan, Major, r/o
House No.1611/18, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 37 Ms. Alka A. Garudi,
Major, r/o House
No.1611/22, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 38 Mr. Marceline Vaz,
Major, r/o House
No.1611/23, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 39 Mr. Anand C.
Korgaonkar, Major, r/o
House No.1611/25, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 40 Mr. Gurudas Korgaonkar,
Major, r/o House
No.1611/25/A, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 41 Mr. Bhaskar Laximan
Rane, Major, r/o House
No.1611/26, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 42 Mr. Salvador P. Barreto,
Major, r/o House
No.1611/27, Voilo

- Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 43 Mrs. Maria Esperanca
Fernandes, Major, r/o
House No.1611/28, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 44 Mr. Lawrence Noronha,
Major, r/o House
No.1611/29, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 45 Mrs. Reshma R. More,
Major, r/o House
No.1611/30, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 46 Mr. Chandrashekar
Rajaram Revonekar,
Major, r/o House
No.1611/31, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 47 Mr. Hanumat Siddappa,
Major, r/o House
No.1611/32, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 48 Mr. Barquilo R. Naik,
Major, r/o House
No.1611/33, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 49 Mr. Maulai M. Sheik,
Major, r/o House
No.1611/34, Voilo
Vaddo, Orda, Candolim,

- Bardez-Goa. 403 515.
- 50 Mr. Raffik Amshab,
Major, r/o House
No.1611/35, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 51 Mr. Kasim Saab Bepari,
Major, r/o House
No.1611/36, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 52 Mr. Santosh N.
Agarwadekar, Major, r/o
House No.1611/40, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 53 Ms. Conceicao Fernandes,
Major, r/o House
No.1611/42, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 54 Ms. Celestine Colaco,
Major, r/o House
No.1611/43, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 55 Mr. Satish Keshav
Gaonkar, Major, r/o
House No.1611/44, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 56 Ms. Deepika Jadhav,
Major, r/o House
No.1611/45, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 57 Mr. Hrena Joina Menon,

- Major, r/o House
No.1611/46, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 58 Ms. Theresa Rodrigues,
Major, r/o House
No.1611/47, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 59 Ms. Taramati S. Jadhav,
Major, r/o House
No.1611/48, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 60 Ms. Aurola Fernandes,
Major, r/o House
No.1611/49, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 61 Ms. Ravina S. Lamani,
Major, r/o House
No.1611/51, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 62 Ms. Shubangi Pandurang
Naik, Major, r/o House
No.1611/53, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 63 Ms Rozaline Soares,
Major, r/o House
No.1611/55, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 64 Ms. Zarina S. Khakar,
Major, r/o House
No.1611/58, Voilo

- Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 65 Mr. Namdeva R.
Pednekar, Major, r/o
House No.1611/59, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 66 Mr. Shamrao Akaram
Dobolkar, Major, r/o
House No.1611/60, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 67 Mr. Anil Pednekar,
Major, r/o House
No.1611/61, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 68 Mrs. Mathurabai D.
Betkar, Major, r/o House
No.1611/62, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 69 Mr. Umesh Subray
Nayak, Major, r/o House
No.1611/63, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 70 Mr. Antonio Fernandes,
Major, r/o House
No.1611/64, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 71 Mr. Anil Ramu Sutar,
Major, r/o House
No.1611/67, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.

- 72 Mr. Narendra Bandodkar,
Major, r/o House
No.1611/71, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 73 Ms. Deepika Carlo Singh,
Major, r/o House
No.1611/72, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 74 Mr. Anwar Khan, Major,
r/o House No.1611/74,
Voilo Vaddo, Orda,
Candolim, Bardez-Goa.
403 515.
- 75 Ms. Kalpana Arjun,
Major, r/o House
No.1611/76, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 76 Ms. Chandrika Sahani,
Major, r/o House
No.1611/83, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 77 Ms. Reema D'Souza,
Major, r/o House
No.1611/84, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 78 Mr. Pankaj Kumar,
Major, r/o House
No.1611/85, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 79 Mr. Mehaboob Ali
Kalannavalan, Major, r/o

- House No.1611/86, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 80 Mr. Munna Nadaf,
Major, r/o House
No.1611/87, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 81 Mr. Sanjay Kumar
Maurya, Major, r/o
House No.1611/88, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 82 Mr. Jaffer Saudekar,
Major, r/o House
No.1611/89, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 83 Mr. Abdul Rahman
Wajsab Patel, Major, r/o
House No.1611/90, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 84 Mr. Rafiq Saiyed Sab
Amnigeri, Major, r/o
House No.1611/91, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 85 Mr. Jainulla Mardansab
Kalas, Major, r/o House
No.1611/94, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 86 Mr. Rama S. Kumar,
Major, r/o House
No.1611/95, Voilo
Vaddo, Orda, Candolim,

- Bardez-Goa. 403 515.
- 87 Mr. Arajali H. Sheik,
Major, r/o House
No.1611/96, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 88 Mr. Uday Mandrekar,
Major, r/o House
No.1611/97, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 89 Mr. Imam Husain
Tahasildar, Major, r/o
House No.1611/99, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 90 Mr. Umesh Yadav, Major,
r/o House No.1611/101,
Voilo Vaddo, Orda,
Candolim, Bardez-Goa.
403 515.
- 91 Mr. Virappa R. Chikodi,
Major, r/o House
No.1611/103, Voilo
Vaddo, Orda, Candolim,
Bardez-Goa. 403 515.
- 92 Mr. Allabax Khadarsab
Tahasildar, Major, r/o
House No.1611/104,
Voilo Vaddo, Orda,
Candolim, Bardez-Goa.
403 515.
- 93 Mr. Manjunath
Devendrappa Badiger,
Major, r/o House
No.1611/105, Voilo
Vaddo, Orda, Candolim,

- Bardez-Goa. 403 515.
- 94 Mr. Rasulsab Abdul K. Chikkumbi, Major, r/o House No.1611/106, Voilo Vaddo, Orda, Candolim, Bardez-Goa. 403 515.
- 95 Mr. Mahadev F. Thodaky, Major, r/o House No.1611/107, Voilo Vaddo, Orda, Candolim, Bardez-Goa. 403 515.
- 96 Mr. Ram Billas Pandit, Major, r/o House No.1611/108, Voilo Vaddo, Orda, Candolim, Bardez-Goa. 403 515.
- 97 Mr. Hanumant Patel, Major, r/o House No.1611/10, Voilo Vaddo, Orda, Candolim, Bardez-Goa. 403 515.
- 98 Mr. Narayan M. Ingale, Major, r/o House No.1611/112, Voilo Vaddo, Orda, Candolim, Bardez-Goa. 403 515.
- 99 Mr. Noor Daulsab Khalif, Major, r/o House No.1611/114, Voilo Vaddo, Orda, Candolim, Bardez-Goa. 403 515.
- 100 Mr. Tina Bundale, Major, r/o House No.1611/115, Voilo Vaddo, Orda, Candolim, Bardez-Goa. 403 515.

- 101 Mr. Ramesh Pawar,
Major, r/o Voilo Vaddo,
Orda, Candolim, Bardez-
Goa. 403 515.
- 102 Mr. Saluzinho Soares,
Major, r/o House
No.1537, St. Sebastian,
Voilo Vaddo, Orda,
Candolim, Bardez-Goa.
403 515.
- 103 Director of Panchayat,
North Goa at Panaji,
3rd lift, 3rd Floor
Junta House Panaji-Goa

Mr Jayant Karn, Advocate *for the Petitioners.*

Mr Geetesh Shetye, Additional Government Advocate, *for the Respondent State.*

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

Reserved on: 25th JANUARY 2023
Pronounced
on: 30th JANUARY 2023

JUDGMENT (Per: Bharat P. Deshpande, J.)

1. The present petition is filed by several villagers of Candolim bringing out indiscriminate hill cutting, illegal construction activities, development activities carried out in Village Candolim specifically in Survey Nos. 80/3, 80/4, 80/5; 82/2/, 82/3, 82/4, 82/5, 82/7, 82/8, 82/9, 82/10, 82/11 & 82/12; 83/3, 83/4, 83/5, 83/7, 83/8, 83/9, 83/10, 83/11, 83/12 & 83/13 at Orda Candolim of the Village

Calangute of Bardez Taluka in violation of Goa , Daman & Diu Minor Mineral Concession Rules 1985, the Goa Panchayat Raj Act, 1984 and the Building Rules applicable to the constructions as well as in contravention of the provisions of Town & Country Planning Act.

2. The prayers in the petition are as under:

'a. For a Writ of Mandamus or any other writ, order or direction in the nature of Mandamus, commanding the Village Panchayat of Candolim, and the Village Panchayat of Calangute, viz. The Respondents Nos. 4 and 5 respectively, to forthwith take action against the illegal construction/s in the properties surveyed under survey Nos. 80/3, 80/4, &80/5; 82/2, 82/3, 82/4, 82/5, 82/7, 82/8, 82/9, 82/10, 82/11, & 82/12; 83/3, 83/4, 83/5, 83/7, 83/8, 83/9, 83/10, 83/11, 83/12, & 83/13, at Orda Candolim of the Village Calangute of Bardez Taluka, and carry out demolition of the same under the powers vested in them, under Section 66 of the Goa Panchayat Raj Act 1994;

b. For a Writ of Mandamus, or any other writ, order or direction, in the nature of Mandamus, commanding the Respondents Nos. 9 and 10 to forthwith take further action in the matter for the purpose of investigation into the First Information Report registered on 4/6/2007 under Sections 468, 471 read with 34 of I.P.C. and the First Information Report registered on 20/12/2006 under Section 17(A) of the Town and Country Planning Act;

c. For a Writ of mandamus, or any other writ, order or direction in the nature of Mandamus, commanding the Respondents Nos. 3, 4, 5, 6, 7, and 8, to forthwith disconnect electric and water supply to the constructions which have been illegally constructed, as also cancel allotment of the house numbers, to the illegal constructions located in the said survey numbers Survey Nos. 80/3, 80/4, &80/5; 82/2, 82/3, 82/4, 82/5, 82/7, 82/8, 82/9, 82/10, 82/11, & 82/12; 83/3, 83/4, 83/5, 83/7, 83/8, 83/9, 83/10, 83/11, 83/12, & 83/13, at

Orda Candolim of the Village Calangute of Bardez Taluka;

d. For a writ of Mandamus, or any other appropriate writ, order or direction in the nature of Mandamus, commanding the Respondents Nos. 1, 2, 9 and 10 to forthwith seize all the vehicles and machinery which were involved in the illegal hill cutting in survey numbers Survey Nos. 80/3, 80/4, &80/5; 82/2, 82/3, 82/4, 82/5, 82/7, 82/8, 82/9, 82/10, 82/11, & 82/12; 83/3, 83/4, 83/5, 83/7, 83/8, 83/9, 83/10, 83/11, 83/12, & 83/13, at Orda Candolim of the Village Calangute of Bardez Taluka;

e. For a Writ of Mandamus, or any other writ, order or direction in the nature of Mandamus, commanding the Village Panchayat of Candolim and the Village Panchayat of Calangute, to prohibit all illegal construction activities of whatsoever nature in the said properties, surveyed under Survey Nos. 80/3, 80/4, &80/5; 82/2, 82/3, 82/4, 82/5, 82/7, 82/8, 82/9, 82/10, 82/11, & 82/12; 83/3, 83/4, 83/5, 83/7, 83/8, 83/9, 83/10, 83/11, 83/12, & 83/13, at Orda Candolim of the Village Calangute of Bardez Taluka;

f. For interim orders in terms of the Prayer clauses (c), (d) and (e) above;

g. For an appropriate direction to the concerned authorities to ensure that they perform the statutory duties imposed upon them, under the relevant laws, demolish and remove all the illegal constructions which have been put up in the aforementioned properties'.

3. When the matter was taken up on 09.12.2009 by a coordinate Bench of the Court, the following order was passed:-

'P.C.:-

Heard.

Respondent Nos.4 and 5, the Village Panchayats have filed their affidavits. The same are placed on record.

2. *Learned Senior Counsel on behalf of the Petitioners has invited our attention to paras 3 and 4 of the affidavit filed Respondent No.4/Village Panchayat of Candolim wherein it is stated that they are not in a position to emphatically state as to whether Respondent No.4 would initiate action against illegal constructions within its jurisdiction. Learned Senior Counsel on behalf of the Petitioners with reference to certain documents available on record has submitted that the Petitioners had sought information, under the Right of Information Act, as regards the structures and the said Village Panchayat had informed that the said structures were put up without their permission. Learned Senior Counsel has also pointed out that the Village Panchayat of Candolim had given house numbers and/or N.O.C's for the purpose of obtaining electricity connections. This statement is not contested on behalf of the said Village Panchayat. In case the Village Panchayat has given the house numbers and/or N.O.C's to enable the owners of the said houses to obtain electric connection, and if such houses have been built without prior permission of the said Village Panchayat as required under the Goa Panchayat Raj Act, we see no reason as to why the Village Panchayat should not take action against the said illegal constructions in accordance with law. As far as Respondent No.5/Village Panchayat of Calangute is concerned, it is submitted that the said Village Panchayat has decided to carry out a site inspection and issue show cause notices.*

3. *Considering the facts and circumstances of the case, as stated hereinabove, we direct both the Village Panchayats to initiate immediate action against the said illegal constructions in accordance with law within a period of four weeks and conclude the same, four weeks thereafter, and file a compliance report before this Court.*

4. *Learned Senior Counsel on behalf of the Petitioners has also submitted that four trucks and two excavators were seized and one does not know what is the action taken by the Police as regards the same. Pointing to page 101 Shri Rivonkar, learned Government Advocate on behalf of the Government submits that it is quite possible that the said machines/trucks might have been returned to the concerned owners. The*

Investigation Officer to make a statement on the next date as to what happened to the seized trucks/excavators.

5. The matter regarding the restoration of the hill will be considered after compliance report is filed by the Village Panchayats, and, the private Respondents are given notice. Stand over to eight weeks i.e. 3-2-2010.

4. On 23.02.2010 it was submitted that there appears to be dispute regarding boundaries of Village Panchayat of Candolim and Calangute which is coming in the way of the Authorities from taking action against illegal constructions. Thus, a specific order was passed on that date from paragraphs 3 to 6 which reads thus:

‘P.C.

..

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3. It appears that there is dispute regarding boundary of Village Panchayats of Candolim and Calangute, which is coming in the way of demolition of illegal structures, therefore, we deem it appropriate boundary line between the said two Panchayats.

4. The said Director is at liberty to take assistance from Director of Land Survey to obtain the services of a land surveyor.

5. The report of demarcation be submitted within a period of 3 weeks.

6. Representatives of both the Panchayats to remain present at the time of demarcation of the said boundary.’

5. The matter was taken up on 12.04.2010 and the Director of Panchayat placed some report as well as the order dated 23.02.2010. However, the coordinate Bench of this Court observed that such

documents are not in compliance with the directions issued on 15.03.2010. Accordingly, the coordinate Bench passed a specific order on 12.04.2010 as under:-

'P.C.

By the Order dated 23.02.2010, the Director of Panchayats was directed to demarcate in loco the boundary line between the two Panchayats. The report of demarcation was directed to be submitted within three weeks. By our Order dated 15.03.2010, we observed that this Order had not been complied with and that the Memorandum dated 09.03.2010 tendered in Court, does not appear to be the necessary notification under Section 3 of the Goa Panchayat Raj Act, 1994.

2. The Director of Panchayats has filed an affidavit dated 05.04.2010 stating, inter alia, that after going through the notification dated 15.11.1996, it is found that the boundaries of the two Village Panchayats namely, Calangute and Candolim, are not shown in terms of survey numbers and that a plan is not prepared to demarcate the exact survey numbers by the said notification. A proposal has, therefore, been moved to the Government to demarcate the boundaries of all the Village Panchayats.

3. By an Order dated 09.12.09, passed by the earlier Division Bench, both the Village Panchayats were directed to initiate action against the allegedly illegal constructions in accordance with law. The subsequent Order passed by us does not stay the effect of that Order.

4. The learned Counsel appearing for both the Village Panchayats namely Respondent nos. 4 and 5, contend that the structures had been constructed illegally. Further, each of them state that the notices have been issued in respect of several of these structures. Lastly, each of the Village Panchayats contend that the structures in respect of which notices have been issued fall within their jurisdiction. The occupants of the structures have, apparently, in the show cause notice issued by the Candolim Village Panchayat, stated that their structures do

not fall within the jurisdiction of the Village Panchayat which has issued the notice.

5. It is clarified that the Orders passed by this Court will not prevent the Village Panchayats who have issued the show cause notices from proceeding in accordance with law. They must decide the same including any contention as to jurisdiction. They have already been directed to do so by the said Order dated 09.12.2009. We will assume that they have thus far not done so in view of the directions passed by this Court regarding demarcation. Now that it is clarified that the Orders do not prevent them from proceeding with the show cause notices issued to them, they shall do so. Needless to add, they shall do so in accordance with law. The exercise shall be completed on or before 21.06.2010.'

6. The matter was then taken up for further consideration on 23.06.2010. After considering the submissions and the issues involved in the matter, coordinate Bench of this Court issued Rule. Similarly, certain directions were issued in paragraph 5 which read thus:-

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5. We issue the following directions:

a) The Village Panchayats shall proceed with the work of demolition of unauthorized structures and shall complete the process in accordance with law as expeditiously as possible.

b) We direct the State Government to ensure that the process of demarcation of boundary between the areas falling within the jurisdiction of the Village Panchayats of villages Calangute and Candolim shall be completed within a period of one year from today.

c) The Village Panchayats will submit a report as regards action taken by them on or before 31st August, 2010.

d) The report shall be placed for consideration of the Court on 6th September, 2010.'

7. Since the said order was not complied with and an extension was sought, the period for carrying out demarcation was extended till 31.05.2012.

8. On 10.10.2018 when the matter was taken up for further consideration, the coordinate Bench specifically observed that in spite of passing specific directions, there is no compliance from the respondents. However, on the submissions of the learned Advocate General appearing for the State, it was observed from paragraph no.3 as under:-

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3. The learned Advocate General submits that as regards the the boundary dispute between the two villages is concerned, it would take around six months' time to resolve the same. The learned Senior Advocate appearing for the Petitioners points out that on the ground of dispute, virtually no action is taken by the State Authorities against the unauthorised constructions and the hill cutting. He states that even though the FIRs have already been lodged, nothing has been done thereafter. It is evident from the record that is placed before us that both the Village Panchayats i.e. the Village Panchayat of Candolim and the Village Panchayat of Calangute have failed to take necessary actions as complained of in the Petition.

4. The ground of inter se boundary dispute cannot continue to be a reason for not taking any action, which the

Authorities are bound to do. In case a Village Panchayat fails to take any action, Section 66(5) of the Goa Panchayat Raj Act, 1994 empowers the Deputy Director of Panchayats to assume the power. The facts are so clear that no further satisfaction of the failure of the Panchayat is required. Therefore, the Deputy Director of Panchayat shall assume the power of the Village Panchayat immediately.

5. The Deputy Director will accordingly now proceed to implement the directions given in the order dated 23 June 2010, which we have already reproduced as above. In addition and in furtherance, we direct the Deputy Director of Panchayats to issue notices to the structures situated on Survey Nos. 80/3, 80/4, 80/5, 82/2, 82/3, 82/4, 82/5, 82/7, 82/8, 82/9, 82/10, 82/11, 82/12, 83/3, 83/4, 83/5, 83/7, 83/8, 83/9, 83/10, 83/11, 83/12 and 83/13 at Orda Candolim, of Village Calangute, Bardez Taluka, calling upon the occupants therein to show cause in respect of the legalities of the structures and with consequent directions.

6. The notices be issued to the occupants within a period of 15 days from today. The learned Advocate General seeks longer time for notices to all, but the notices, at least in respect of the respondents who have been joined and whose details are already on record, be issued within 15 days.

7. As regards clause (b) of the Order dated 23 June 2010, at the request of the learned Advocate General, the period for resolution of the boundary dispute is extended by a period of six months from today.

8. Apart from the above directions, the Respondents No.9 and 10 will proceed further in respect of the FIRs registered and as specified in prayer clause (b) of the Petition i.e. the one registered on 12 December 2006 and the other registered on 4 June 2007 and periodically apprise the Court of the progress of the investigation or place final report on record if the investigation is already concluded. Till date we are not informed of the status of those FIRs.

9. S.O. 30 October 2018 under caption "For Directions".'

9. From time to time the matter was thereafter taken up for consideration and respondent no.3 filed affidavit dated 27.03.2019 disclosing that 267 cases of illegal constructions are filed giving their names and other details. Thereafter, on 09.04.2019 directions were issued to the concerned Authorities to decide all the cases as expeditiously as possible. Thereafter, from time to time this Court was informed by the concerned Authorities that some cases regarding illegal constructions have been disposed of and the remaining matters are taken up on priority basis.

10. On 21st August 2019, submission was made by the learned Advocate General that the Deputy Director of Panchayat has disposed of 32 matters though assurance was given to dispose of at least 50 matters. Further assurance was given that remaining matters will be disposed of as expeditiously as possible. Subsequently, statements were made of disposal of some more matters and on 27.09.2022, the Deputy Director of Panchayat filed compliance affidavit stating that all 262 cases against persons who had put up constructions illegally in Candolim village have been disposed of. Learned counsel appearing for the petitioner accepted this position and pointed out that even demolition orders have been issued against all of them. He, however, submitted that appeals have been instituted against such demolition orders and the same are pending before Director of Panchayat. Accordingly, we directed to furnish the list with details of all appeals

pending before the Director of Panchayat. Further, Director of Panchayat was directed to dispose of these appeals as expeditiously as possible and, in any case, within one year from that date.

11. Vide earlier order dated 10.10.2018 the coordinate Bench of this Court had directed respondents no.9 and 10 to proceed further in respect of FIRs registered against such persons and as specified in prayer clause (b) of the petition and to apprise this Court of the progress of investigations. It was further observed that there does not appear to be any further compliance report filed regarding this direction. Accordingly, we directed respondent no.9 and 10 to file compliance report. On 15.10.2022, the Deputy Director of Panchayat filed his affidavit which is at page 310 onwards including Annexure 'A' and Annexure 'B' giving the details of the cases disposed of by the Deputy Director of Panchayat and the number along with details of the appeals pending before Directorate of Panchayat. This report shows that out of total number of appeals filed, 3 appeals have been disposed of and 129 appeals are pending before the Additional Director of Panchayat-I, Panaji.

12. Respondents no.9 and 10 also filed compliance affidavit which is at page 415. It is claimed that FIRs registered in the year 2006 and 2007 were investigated and the charge-sheets have been filed. FIR No.106/2006 registered at Calangute Police Station was however

investigated and a case was filed before the learned Magistrate who, vide order dated 24.08.2015, discharged all the accused persons. The Criminal Case No.IPC/159/2016/A in connection with FIR No.87/2007 registered at Panaji Police Station is pending before the Panaji Court at the stage of trial.

13. We have heard learned counsel appearing for the respective parties and on perusal of the above orders passed from time to time, it is sufficiently established that the Village Panchayats took action against the illegal constructions as pointed out by the petitioners and in all, 267 cases were filed before the Deputy Director of Panchayat. In all cases demolition notices have been issued. Some of the persons against whom such notices are issued for demolition, approached the Director of Panchayat in an appeal. Even the criminal cases on the basis of FIR lodged were investigated and charge-sheets have been filed. The purpose of the petitioners in filing the present petition is, therefore, substantially redressed. The only grievance is the time taken by the Director of Panchayat to decide the appeals.

14. Considering that even though we have given directions to the Director of Panchayat to dispose of such appeals as expeditiously as possible, we think that no fruitful purpose will be served in keeping the present matter pending. However, we again reiterate in connection with our directions to the Director of Panchayat to dispose

of all the appeals listed at Annexure 'B' of the affidavit filed by the Deputy Director of Panchayat dated 14.10.2022, as expeditiously as possible and preferably within a period of one year from today and file compliance. Such compliance shall be placed on record.

15. With the above directions and observations, we dispose of the Rule in the present petition. However, the compliance shall be filed as directed above.

BHARAT P. DESHPANDE, J.

M. S. SONAK, J.

MARIA SUZANA REBELLO
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REBELLO
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