

Esha

IN THE HIGH COURT OF BOMBAY AT GOA

PIL WRIT PETITION NO. 27 OF 2023

CHICALIM VILLAGE ACTION
COMMITTEE THR. PRESIDENT
CYRIL ALEIXO FERNANDES & 2 ORS. ... PETITIONERS
VS
STATE OF GOA THR. CHIEF
SECRETARY & 10 ORS. ... RESPONDENTS

Mr Nigel da Costa Fraiss with Ms Sonadevi Nishad, Advocates for the Petitioners.

Mr Devidas J. Pangam, Advocate General with Mr Neehal Vernekar, Additional Government Advocate for Respondent Nos. 1 and 2.

Mr Nikhil Pai, Advocate for Respondent No. 3.

Mr Zeller D'Souza, Advocate for Respondent No. 4.

Mr Vledson Braganza with Mr Vilas Pavithran, Advocates for Respondent Nos. 6, 7, 10 and 11.

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

DATED: 8th NOVEMBER 2023

P.C.:

1. Heard Mr Costa Frias and Ms Sonadevi Nishad for the Petitioners. The learned Advocate General appears with Mr Vernekar, the learned Additional Government Advocate for Respondent Nos. 1 and 2, Mr Nikhil Pai for Respondent No. 3,

Mr Zeller D'Souza for Respondent No. 4 and Mr Vledson Braganza for Respondent Nos. 6, 7, 10 and 11.

2. The record indicates that Respondent No. 5 is served and Respondent Nos. 8 and 9 are unserved. However, for the order that we propose to make, service upon these Respondents may not be necessary.

3. The Petitioners by their complaint dated 04.07.2022 and legal notice dated 10.05.2023 have alleged that the construction permissions granted to Respondent Nos. 5 to 11 are vulnerable, because at the side, the road width is made lesser, than what is prescribed under the Building Rules and Regulations as applicable.

4. Accordingly, we direct Respondent No. 3-Mormugao Planning and Development Authority (MPDA) to dispose of the Petitioners' complaint dated 04.07.2022 and legal notice dated 10.05.2023 in accordance with law and on its own merits.

5. Mr Nikhil Pai states that the MPDA will hold the site inspection on 24.11.2023 and 25.11.2023 and dispose of the Petitioners' complaint within six weeks from the date of such inspection.

6. Mr Pai states that a joint inspection would be held on the said dates in the presence of the representative of the Petitioners, the Village Panchayat of Chicalim and Respondent Nos. 5 to 11.

Mr Pai states that notices will be immediately issued to Respondent Nos. 5, 8 and 9 informing them about the date of inspection.

7. The learned Counsel for Respondent Nos. 6, 7, 10 and 11 accepts notice and states that the parties whom he represents will themselves remain present for the said inspection, which will be at 11:00 a.m. on 24.11.2023 and 25.11.2023.

8. Mr Zeller D'Souza states that a representative of the Panchayat will also remain present for the site inspection without insisting upon any separate notice.

9. The MPDA must dispose of the Petitioners' representation in accordance with law and based upon the site inspection. The MPDA must communicate its decision to the Petitioners and Respondent Nos. 4 to 11. The MPDA will comply with principles of natural justice and fair play, in the peculiar facts of this case, while granting an opportunity of hearing to the Petitioners and Respondent Nos. 5 to 11.

10. The constructions that are being carried out by Respondent Nos. 5 to 11 shall be subject to the decision of the MPDA on the Petitioners' complaint and Respondent Nos. 5 to 11 will not claim any equities. The construction can be carried on by them at their own risk and at their own consequences and costs.

11. Mr Braganza states that his clients are not carrying out any construction.

12. With the above direction, this Petition is disposed of. We clarify that we have not examined the rival contentions because we think that the Petitioners' complaint must be first considered by the MPDA. Accordingly, all contentions of all parties are left open for consideration by the MPDA at the first instance.

13. All concerned to act on an authenticated copy of this Order.

BHARAT P. DESHPANDE, J.

M. S. SONAK, J.