

Niti

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.555 OF 2019

IRENE FERNANDES, REP.
BY POA, DOMINGOS
FERNANDES

....PETITIONER

Versus

PETER FERNANDES AND
ANR.

....RESPONDENTS

**Mr C.A. Coutinho with Mr Ivan Santimano, Advocate for the
Petitioner.**

**Mr Parag Rao with Mr Akhil Parrikar, Advocate for Respondent
No.1.**

CORAM : M. S. SONAK, J.

DATE : 10th FEBRUARY 2023

ORAL ORDER :

1. Heard Mr C.A. Coutinho with Mr Ivan Santimano for the petitioner and Mr Parag Rao with Mr Akhil Parrikar for respondent no.1.

2. The petitioner challenges orders made by almost three authorities under the Panchayat Raj Act ordering the demolition of her storeroom on the ground that the same was put up without permission from any authorities.

3. Mr Coutinho, learned Counsel for the petitioner, submits that respondent no.1 had instituted a suit seeking a mandatory injunction to demolish this storeroom. A mandatory interim order was also sought for. After this was declined, respondent no.1 complained to the authorities under the Panchayat Raj Act that the storeroom was constructed without permission. Mr Coutinho submits that based on this circumstance, the authorities should have declined to entertain respondent no.1's complaint.

4. Mr Coutinho submits that there is material on record to show that complaints about this structure were made in 1984. He, therefore, presents that this was an existing structure and the same should not have been ordered to be demolished by the Panchayat authorities.

5. Mr Rao, learned Counsel for respondent no.1, submits that the petitioner has produced no permissions from any authorities for putting up this storeroom. He submits that no material exists to show this was an existing structure. He submits that three authorities have found this structure illegal, and there is no jurisdictional error in the view taken by the three authorities. He, therefore, submitted that this petition may be dismissed.

6. The rival contentions now fall for my determination.

7. The three authorities under the Panchayat Raj Act have examined the petitioner's case and found that the storeroom was constructed illegally without obtaining permission from any authorities. Even before this Court, the petitioner does not claim to have obtained any permission from any authorities for putting up this storeroom. On the aspect of the existing structure, except for a bald contention that the structure was old or put up before the Village Panchayat Regulations entered force, no material whatsoever has been produced to support this plea. Simply saying that the structure was an old or an existing one is never sufficient in such matters.

8. Although respondent no.1 indeed complained after the mandatory injunction was declined, that is not a circumstance for finding fault with the authorities entertaining respondent no.1's complaint. The scope of proceedings in the civil suit and the complaints before the Panchayat authorities is quite different. In the Civil Suit, the Court is mainly concerned with the rights and entitlement of the parties in the context of the title, possession, etc. However, while entertaining complaints made to the Panchayat authorities, such authorities are concerned with the issue of legality or otherwise of the structure put up.

9. As noted earlier, almost three authorities have examined the petitioner's case threadbare. Moreover, even the petitioner does not claim to have put up the structure with any permissions. Therefore,

the half-hearted plea about the structure being put up before the Panchayat Regulations entered force is not made good by producing any evidence.

10. Accordingly, there is no perversity in the orders made by the three authorities concurrently. Consequently, there are no jurisdictional errors. Accordingly, this petition is liable to be dismissed and is hereby dismissed. There shall be no order for costs. Accordingly, the interim order granted earlier is hereby vacated.

M. S. SONAK, J.

NITI K
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