

Amrut

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 29 OF 2023

DEVANAND BANDODKAR

... Petitioner

Versus

STATE OF GOA THR. CHIEF
SECRETARY AND 5 ORS.

... Respondents

Mr. Shivraj Gaonkar and Mr. P. Shirvoikar, Advocates for the
Petitioner.

Mr. D. Pangam, Advocate General with Mr. S. Patkar, Additional
Government Advocate for Respondent Nos. 1, 2, 5, and 6.

Mr. Kaif Noorani, Advocate for Respondent No.4 under Legal Aid
Scheme.

CORAM:

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

DATED:

10th JANUARY 2023

P.C.:

- 1.** Heard Mr. Gaonkar, learned counsel for the Petitioner.
- 2.** The Petitioner, who is neighbour of Respondent No.4 has
complained about certain extensions which according to the
Petitioner, were illegally carried out to the structure through which
Respondent No.4 undertakes a small bakery business.
- 3.** The Petitioner seeks a writ of mandamus to the Panchayat to
demolish the illegal structure in accordance with the general Circular

issued by the Director of Panchayats on 10.07.2000 advising the Panchayat to take action against the illegal structures.

4. The record bears out that the authorities way back in the year 2010 had examined the Petitioner's case and even issued certain directions. One of the directions was to initiate action in case of Respondent No.4 within time bound period does not secure the permissions/regularization orders. This is evident from the order dated 07.12.2010 made by the Deputy Director of Panchayats.

5. The record further bears out that the Town and Country Planning Department (Office of the Senior Town Planner) after examining the matter, issued a technical clearance order dated 17.03.2011 concerning the portion about which the Petitioner now has complained. This was followed by a Corrigendum dated 02.07.2015 clarifying the technical clearance order. The Panchayat, *inter alia* acting on the technical clearance order, issued a construction licence on 28.09.2015 thereby regularizing the extension. The Panchayat also made a resolution on 10.09.2015 to this effect.

6. Significantly, none of these orders issued by the Senior Town Planner and the Panchayat way back in the years 2011, 2012, and 2015 have been challenged in this petition. Yet, for several years the Petitioner seeks a mandamus to the Panchayat to take action against the extension which, the Petitioner styled as illegal and quite unilateral.

7. The Petitioner has taken out several proceedings before the authorities under the Panchayat Raj Act. The Petitioner also complained about non-compliance or failure to execute the earlier orders and ultimately, the Additional Director of Panchayats in Execution Application No.1/2020 has made a sufficiently detailed order dated 25.07.2022 dismissing the execution proceedings. There is nothing on record to indicate that this order has been challenged by the Petitioner yet the Petitioner seeks a direct mandamus for action against what he unilaterally styled as illegal construction.

8. Considering the above facts and circumstances, which are evident from the various documents annexed by the Petitioner to the petition, it is apparent that this petition is quite misconceived and deserves to be dismissed. Accordingly, this petition is dismissed without any order for costs.

9. We thank Mr Noorani, learned counsel appointed under Legal Aid Scheme to appear on behalf of Respondent No.4. The Goa State Legal Services Authority to pay his professional fees in terms of the rules. This is in addition to the gratitude we have now expressed.

BHARAT P. DESHPANDE, J

M. S. SONAK, J

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