

Meena

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.556 OF 2022

MARIA ANTONETA V. FERNANDES @ ...Petitioner
MARIA ANTONIETTA V. FERNANDES

Versus

FRANCISCO OLIVEIRA AND 4 ORS ... Respondents

Mr. J. Godinho, Advocate for the Petitioner.

Mr. Arjun Naik and Ms. Mehendi Naik Desai, Advocate for Respondent Nos. 1 and 2.

Mr. D. Pangam, Advocate General with Mr. S. Parab, Additional Government Advocate for Respondent Nos. 4 and 5.

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

DATED : 24th JANUARY, 2023

P. C.

1. The petitioner complains about certain constructions undertaken by respondents No.1 and 2. The petitioner contends that these constructions are illegal.

2. The petitioner has relied upon notices issued by the Panchayat and even communication from the Planning Authority. The Panchayat had, along with the Show Cause Notices issued a stop work order. The petitioner complained that despite the Stop Work order respondents No.1 and 2 were continuing with the construction.

3. Therefore, by our order dated 23/11/2022, we have restrained respondent No.2 from proceeding with the activities at the site till the next date. This order was continued from time to time and is today in force.

4. Mr. Arjun Naik, learned Counsel for respondents No.1 and 2 contends that there is no illegality about the constructions. However, he admits that respondent Nos.1 and 2 received the stop work order and states that presently there is no construction going on at the site. He contends that the petitioner had instituted a civil suit and further, even the petitioner has carried out illegal construction.

5. Since the material on record shows that the Panchayat has issued a Show Cause Notice dated 20/10/2022, it is only appropriate that the Panchayat is directed to dispose of Show Cause Notice in accord with law as expeditiously as possible and in any case within two months from today. In the meanwhile, since the stop work order issued by the Panchayat is in force and there are other orders from the BDO and the Planning Authorities, it is only appropriate that respondents No. 1 and 2 do not proceed with the construction activity till the Panchayat disposes of the Show Cause Notice. Mr. Naik, based on the instructions from respondents No.1 and 2, states that respondents No.1 and 2 will not carry out any construction until the Show Cause Notice is disposed of by the Panchayat.

6. The Panchayat must afford an opportunity of hearing to the petitioner and respondent Nos.1 and 2. The Panchayat must

communicate its decision to the petitioner and respondents No.1 and 2 within a period of two months.

7. All contentions of all parties on the illegality or otherwise of the constructions are kept open.

8. With the above directions, the petition is disposed of. There shall be no order for costs.

9. All concerned to act on the basis of an authenticated copy of this order.

10. Mr. Godinho states that within a week from today, an authenticated copy of this order will be served upon the Panchayat. The Panchayat must act on the authenticated copy of this order.

BHARAT P. DESHPANDE, J.

M.S. SONAK, J.

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