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IN THE HIGH COURT OF BOMBAY AT GOA

**MISC.CIVIL APPLICATION NO.610 OF 2023
IN
WRIT PETITION NO.367 OF 2006
WITH
MISC.CIVIL APPLICATION NO.44 OF 2023
IN
WRIT PETITION NO.367 OF 2006**

MARGAO MUNICIPAL COUNCIL THROUGH
ITS CHIEF OFFICER

... Applicant

Versus

DOMINGOS BARRETTO

... Respondent

Mr Parag Rao with Mr Akhil Parrikar and Mr Ajay Menon, Advocates
for the Applicant.

Mr S.P. Munj, Additional Government Advocate *for Respondent No.6.*

**CORAM: M.S. SONAK &
VALMIKI SA MENEZES, JJ.**

DATED: 20th December 2023

P.C.:

1. Heard Mr Rao for the Applicant and Mr Munj, learned Additional Government Advocate for Respondent No.6.
2. On 12.12.2023, Mr Gaonkar had appeared before us and at his instance, the matter was posted today. Mr Gaonkar had assured this Court that no further adjournments would be sought.

3. Today, neither Mr Gaonkar nor the party whom he represented are present.
4. By our Judgment and Order dated 18.10.2023, we had directed the following in paragraphs 27 and 28 which read as follows:-

“27. Accordingly, we dispose of the Application [MCA No. 44 of 2023] for modification now that we have clarified the import of our order dated 30.04.2007. Further, we also dispose of the Contempt Petition by directing the MMC to asphalt, at its cost, the stretch of the road between points D and E within two months. We have already clarified above that the original owners or anyone claiming through them cannot object to or obstruct the MMC undertaking this exercise since this exercise was supposed to have been undertaken by the original owners. The original owners solemnly claimed that they had already undertaken the exercise of the construction of the road, including the stretch between D and E.

28. The amount of about Rs.2,73 crores deposited by the MMC can be withdrawn by the MMC only after it asphalts the stretch of the road between points D and E and files a compliance report with photographs in this Court. The MMC will, therefore, have to apply for the withdrawal of this amount after filing the compliance report.”

5. Mr Rao, learned Counsel for the Margao Municipal Council (MMC) refers to the affidavit of compliance filed on behalf of MMC at pages 264 to 285 of the paper-book. The affidavit states that the work of asphaltting the road between points D to E was completed on 12.11.2023 i.e. within a period of two months as directed. The completion certificate is also placed on record along with photographs showing that the asphaltting is complete. The compliance report dated 28.11.2023 filed on behalf of MMC is also accepted.

6. Mr Rao points out that the Judgment and order dated 18.10.2023 was challenged by Respondent Nos.2 and 3 before the Hon'ble Supreme Court. However, the SLP was dismissed by order dated 01.12.2023.

7. Therefore, considering the above circumstances, this application is allowed in terms of prayer clause (A) which reads as follows:-

“A. This Hon’ble Court be pleased to direct the Registry of this Hon’ble Court to release the amount of Rs. 2,73,32,440.80/- (Rupees Two Crores Seventy Three Lakhs Thirty Two Thousand Four Hundred Forty and Eighty Paise Only) deposited by the Applicant in this Hon’ble Court, along with the interest accrued thereon, to the Applicant.”

8. Mr Rao states that the bank details of MMC will be provided to the Registry so that the Registry can transfer the above amount to MMC's bank account directly.

9. Misc. Civil Application No.610/2023 is disposed of in the above terms without any order for costs.

VALMIKI SA MENEZES, J.

M.S. SONAK, J.

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FRANCISCO
DSOUZA

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