

Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.188 OF 2024

MANJU GROVER AND ANR.

... PETITIONERS

Versus

STATE OF GOA THR ITS CHIEF
SECRETARY AND 6 ORS.

... RESPONDENTS

Mr Varun Bhandanker, Advocate *for the Petitioners.*

Mr Shubham Priolkar, AGA *for the State.*

Mr Dinesh Naik, Advocate *for Respondent No.6.*

Mr I. B. Passi, Advocate *for Respondent No.7.*

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

DATE: 26th FEBRUARY 2024

P.C.:

1. Heard Mr Varun Bhandankar for the petitioners, Mr Shubham Priolkar, learned AGA for respondents no.1 to 4, Mr Dinesh Naik for respondent no.6 and Mr I. B. Passi for respondent no.7.

2. On 20.02.2024, after hearing Mr Bhandankar and the learned AG we made the following order:-

“ Heard Mr. Bhandanker, learned Counsel for the Petitioners and Mr. Pangam, learned Advocate General for the Respondent nos. 1, 2, 3 and 4.

2. Mr. Bhandanker states that private notice has been served upon Respondent Nos. 5, 6 and 7. He says that these Respondents have endorsed the receipt of the notice. However, despite the Court

Sheristedar calling out the names of these Respondents, none have chosen to appear before the Court. Mr. Bhandanker states that an affidavit of service will be filed in the course of the day.

3. Mr. Bhandanker pointed out that the Deputy Town Planner, by his communication dated 08.02.2024 noted that his office had inspected the site on 06.02.2024 and observed that there were internal and external changes being carried out to the building. The communication also notes that the Deputy Town Planner's office has not issued any approval for such changes. This communication is at Annexure A-5 (page 29 of the paper book).

4. Mr. Bhandanker then pointed out to the communication dated 09.02.2024 issued by the Sarpanch of the Village Panchayat of Chimbhel. This communication is a little confusing. On one hand, it suggests that the stop-work order which the Panchayat had issued stands revoked/cancelled. On the other hand, the communication suggests that directions have been issued to the 7th Respondent to get the mezzanine frame removed with immediate effect and reinstate other masonry works and report compliance. Mr. Bhandanker submits that taking advantage of the ambiguity, the 7th Respondent is proceeding with the works and further attempting to change the status quo. Such a mention was made by Mr. Bhandanker even when this matter was mentioned for circulation.

5. Considering the above material, we direct Respondent nos. 5 and 7, including in particular 7th Respondent, to stop all further works at the site until the next date which shall now be 26.02.2024. Further, we direct the Secretary of the Village Panchayat to forthwith proceed to the site and draw a panchanama of the status quo at the site. The Secretary should ensure that no further works are carried out at the site until the next date.

6. At one stage, we were considering whether we should allow the 7th Respondent to proceed with the work of removing the mezzanine frame and reinstate other masonry works. However, considering Mr. Bhandanker's submission about the 7th Respondent attempting to take advantage of the ambiguity in the Panchayat's communication, we think that no further activities should be carried out until the next date.

7. All concerned, including in particular the Secretary of the Village Panchayat of Chimbhel, should act on an authenticated copy of this Order.

8. *Once again, we issue notices to Respondent Nos. 5, 6 and 7, returnable on 26.02.2024.*

9. *In addition to the usual mode of service, private service/humdast is allowed. The Petitioner to file affidavit of service.”*

3. Today Mr Dinesh Naik, learned counsel for the Panchayat states that the Panchayat has inspected the premises and he craves leave to place on record the inspection report along with photographs. The report is taken on record. However, we think that the premises should be inspected by the officials of the Deputy Town Planner, who would be best suited to report on whether or not any structural changes have been made.

4. Mr Passi, learned counsel for respondent no.7 tenders affidavit of respondent no.7. He states that the mezzanine floor has already been removed. He makes a general statement that whatever extensions were carried out have already been removed and the apartment has been restored to its original condition. He states that whatever work that has been done in the apartment is in the nature of interior decoration involving furnitures, fixtures, painting, tiling, etc. He states on instructions that no structural alterations have been carried out or are proposed to be carried out without obtaining permissions from the authorities.

5. Mr Passi also refers to the statement made by respondent no.7 in paragraph 17 of the affidavit filed today which reads as follows:-

“ 17. I submit that I have neither carried out nor will carry out any work in my flat as alleged by the Petitioner herein that can be construed as hazardous from the health of the building safety.”

6. The statements made on behalf of respondent no.7 are accepted as undertakings to this Court. Since the allegations are made in the petition about structural changes and respondent no.7 has now filed an affidavit stating that the mezzanine floor has been removed and most of the

allegations have been redressed, we direct the Deputy Town Planner to depute officials who will be well-versed in these matters to inspect the premises in the presence of the petitioners and the respondent no.7. Mr Priolkar states that such inspection would be carried out within a week from today.

7. If the inspection reveals any structural changes, then the Deputy Town Planner must forward the report to the Village Panchayat of Chimbel. Based upon the same, the Panchayat must initiate action in accordance with law in the matter. Such action must be initiated within fifteen days from the receipt of the report from the Deputy Town Planner. The action must be taken to its logical conclusion as expeditiously as possible and in any case within six weeks from the date of its initiation.

8. If any of the parties are aggrieved by the report of the Deputy Town Planner or any action or inaction that might be initiated by the Panchayat, it is open to them to challenge the same in accordance with law before the appropriate forum.

9. With the above directions, we dispose of this petition. There shall be no order for costs.

10. All concerned to act on an authenticated copy of this order.

VALMIKI SA MENEZES, J.

M. S. SONAK, J.

SUCHITRA
NANDAN
SINGBAL

Digitally signed by
SUCHITRA
NANDAN SINGBAL
Date: 2024.02.27
09:35:54 +05'30'