



Maria S.

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.696 OF 2023

RAJESH MURARI NAIK.

... PETITIONER

Versus

THE VILLAGE PANCHAYAT OF
SANCOALE REP. BY ITS

SECRETARY-SARPANCH AND ANR. ... RESPONDENTS

Ms Nicole Mayekar, Advocate for the Petitioner.

Mr Zeller De Sousa, Advocate for Respondent No.1.

Mr Hanumant D. Naik, Advocate for Respondent No.2.

CORAM:- VALMIKI MENEZES, J.

DATED:- 10th December, 2024.

ORAL ORDER:

This is a petition invoking this Court's powers under Article 227 of the Constitution of India to assail the order dated 07.09.2023 passed by the District Court, South Goa, in Civil Revision Application No.16/2023. The civil revision application arises from the show cause notice dated 20.02.2023 by the Village Panchayat of Sancoale with respect to a structure alleged to have been constructed by the petitioner unauthorisedly, without a licence in terms of Section 66 of The Goa Panchayat Raj Act, 1994, in land under Survey No.154/1 belonging to the respondent No.2, Comunidade of Sancoale.

2. In Writ Peittion No.2427 of 2022(Filing) before this Court, order dated 20.02.2023 came to be passed wherein several unauthorised constructions were found within the land of the Comunidade in Survey No.154/1 of Village Panchayat of Sancoale; directions were issued to the concerned Panchayat to take action against the unauthorised structures in terms of Section 66 of the Panchayat Raj Act. Pursuant to these directions the Panchayat issued show cause notice dated 20.02.2023 calling upon the petitioner to show cause why the structure in question should not be demolished. The petitioner sought some time to file documents before the Panchayat but has thereafter not filed any reply to the notice or produced any licence or proof of the existence of the house in question. Accordingly, the Panchayat issued demolition order dated 08.03.2023_ which was assailed in appeal before the Director of Panchayats who dismissed the appeal by order dated 13.04.2023.

3. In a revision application filed before the District Court, after considering all the material on record, the District Court has arrived at a finding that the structure was unauthorised, without any licence and without any supporting documentation.

4. The sole contention now raised in this petition is that the structure in question is a house which falls under Survey No.154/1 belonging to the Comunidade as also Survey No.153/1 which is owned by private parties. It was further contended that in the Other

Rights column of the survey records under Survey No.153/1, an entry has been made of a house in occupation of one Murali Hari Naik, who, the petitioner claims, is his father. Though this contention is raised for the first time in this petition, it does not find place either in the reply to the show cause notice or in any supporting documents or was ever produced before the appellate authority. Even in this petition, the earliest record of house tax is dated 26.03.2014 and besides this document, there is no other document produced in this petition to support the contention raised, that the structure existed in the above referred two survey numbers since 1960, as claimed in the letter dated 09.03.2023 written by the petitioner to the Panchayat. All these contentions have been considered by the Director of Panchayat and the District Court and have been rejected.

5. This is not a case that calls for any interference in a writ jurisdiction of this Court under Article 227 of the Constitution of India as there is neither an error apparent on the face of record nor does the order suffer from non-consideration of any of the material placed before the Court from which this petition arises.

6. Learned Advocate for the petitioner, under instructions from the petitioner who is present in Court, seeks a deferment of the order of demolition dated 08.03.2023 by a period of two months to enable the petitioner to seek alternate accommodation and to carry out the demolition of the structure which is subject matter of the demolition

order. She submits that demolition would be completed within a period of two months. The respondents concede to the request.

7. Accordingly, the order of demolition shall stand deferred until 24.02.2025 by which date the petitioner shall remove the unauthorised structure. The statement of the petitioner, who is present in Court is taken as undertaking to this Court and is accepted. In the event of the petitioner failing to remove the unauthorised structure by 24.02.2025, the petitioner shall deposit before this Court an amount of ₹1 lakh within a period of two weeks from 24.02.2025 and the Panchayat shall immediately proceed to requisition a demolition squad and carry out demolition of the unauthorised structure within a period 4 weeks from the aforementioned date. The sum deposited by the petitioner, in the event of the demolition squad having to carry out the demolition, shall be paid by the registry to the account of the concerned Deputy Collector/demolition squad.

8. In that view of the matter, the petition is rejected with no order as to costs.

VALMIKI MENEZES, J.