

*Esha***IN THE HIGH COURT OF BOMBAY AT GOA****WRIT PETITION NO. 165 OF 2022**

Praveen D'Lima, 44 years, Indian National, having his address at 2nd Floor, Palmar Co-op. Housing Society, Journalist Colony, Alto Porvorim, Bardez – Goa.

... PETITIONER

Versus

1. The Secretary, Village Panchayat of Tivre-Orgao, having office at Tivre-Orgao, Ponda, Goa.
2. The Block Development Officer, Taluka – Ponda, Goa.
3. Mavisha Sameer Swant, major of age, Indian National.
4. Sameer Jaiwant Sawant, major of age, Indian National, Both Res. Nos. 3 and 4, r/o H. No. 442/2, Deulwada, Marcel, Goa.
5. Sumitra Sawant, r/o 442/2, Deulwada, Marcel, Goa.

... RESPONDENTS

Mr. Vibhav R. Amonkar, Advocate for the Petitioner.

Mr. Gauresh T. Malik, Advocate for Respondent No. 1.

Mr. Shubham Priolkar, Additional Government Advocate for Respondent No. 2.

**CORAM: ALOK ARADHE, CJ. &
M. S. SONAK, J.**

DATED: 11th MARCH 2025

ORAL JUDGMENT: (per M.S. SONAK, J.)

1. Heard learned Counsel for the parties.

2. Rule. The Rule is made returnable immediately at the request and with the consent of the learned Counsel for the parties.

3. The Petitioner has raised two contentions. The first was about the illegality of the construction carried out by Respondent Nos. 3 to 5, and the second was the user of this construction for commercial purposes.

4. On 26.07.2022, this Court made the following order:-

“P.C. :

1. Heard the learned Counsel for the parties. Though Respondent No.5 is served, she is neither present, nor represented.

2. Therefore, we place this matter for final disposal at the admission stage on 29th August 2022. The Petitioner to freshly serve Respondent No.5.

3. Respondents No.3 and 4 are daughter and son-in-law of Respondent No.5. They are represented by Advocate Mr. Jivan Bandekar. Mr. Bandekar makes a statement that Respondents No.3 and 4 have no concern with the shop/alleged illegal construction put up by Respondent No.5.

4. By our order dated 20th July 2022, we had recorded a statement made on behalf of Respondent No.1 about inspection of the construction in question and to report whether the same is used for any commercial activities as alleged by the Petitioner.

5. *The Secretary of the Panchayat has now filed an affidavit confirming that the structure is illegal. Mr. Malik the learned Counsel for the Panchayat confirms that no completion certificate or occupancy certificate has been issued for the structure though the same appears to be used for commercial activities. Mr. Malik states that the Panchayat will take immediate steps to ensure the user of this construction for commercial activities is stopped forthwith.*

6. *Mr. Malik states that a stop-work order was already issued and a show cause notice will be issued within two weeks and the same will be disposed of within a reasonable period after that.*

7. *Since there is prima facie material about the construction being unauthorised and the same having no occupancy certificate, the Panchayat will have to take immediate steps to stop the user of these premises. Despite opportunity, Respondent No.5 has chosen not to appear in these proceedings and her daughter and son-in-law claim that they have nothing to do with this construction or these premises.*

8. *The Secretary of the Panchayat to file a compliance report by the next date.*

9. *S.O. to 29th August 2022.”*

5. Mr. Amonkar, learned Counsel for the Petitioner, and Mr. Malik, learned Counsel for the first Respondent, state that the directions issued in the above order have been complied with as

the construction is no longer used for any commercial purpose. Regarding the illegality of the construction, the Petitioner's complaint is pending before Respondent No. 1.

6. On instructions, Mr. Malik, learned Counsel for the first Respondent, states that this complaint would be disposed of in accordance with the law and in compliance with principles of natural justice within four weeks from today. The statement is accepted. The first Respondent should act consistently with this statement. All contentions of all parties are left open.

7. The Rule is made absolute in the above terms with no cost order.

8. All concerned must act on an authenticated copy of this order.

M. S. SONAK, J.

CHIEF JUSTICE