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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.323 OF 2025

RAMESH KUMAR

... Petitioner.

Versus

THE CHIEF OFFICER,
MARGAO MUNICIPAL
COUNCIL AND ANR.

... Respondents.

Mr. Ganesh Naik, Advocate for the Petitioner.

CORAM: VALMIKI MENEZES, J.

DATED: 11th August, 2025

P.C:

1. Registry to waive office objections and register the matter.
2. This petition takes exception to an order dated 27.11.2024 passed by the Goa Municipalities Appellate Tribunal in Municipal Appeal No.40/2022. By the impugned order, the Municipal Tribunal, in an appeal filed by the Petitioner under Section 184 of the Goa Municipalities Act, 1968, has dismissed the appeal. The appeal arises in challenge to an order dated 08.11.2021 passed by the Chief Officer of the Margao Municipal Council, by which the Petitioner has been directed to dismantle the illegal structure which is depicted in the “Document of Transgression” dated 30.07.2020, which is found

at page 65 of the paper book.

3. The main contentions raised in the petition by the learned Advocate Mr. Ganesh Naik for the Petitioner are the following:

- a) That the Petitioner had purchased a flat bearing No. T-5 admeasuring 103.82 super built up area on the third floor of the building in question along with an open terrace of 52 sq. mts., which is described in the sale deed dated 18.01.2018. According to the Petitioner, when the flat in question was purchased, the open terrace had already been covered with a structure constructed over it by the Petitioner's predecessor in title. It is the contention of the Petitioner that he purchased the flat with the structure, the order passed by the Chief Officer of the Municipality is beyond the scope of Section 184 of the Act.
- b) The next contention raised was that since the terrace is part of the sale deed and forms part of the area purchased, the Petitioner has an unbridled right to use the same by covering such a terrace, and such structure would be outside the purview of Section 184 of the Municipalities Act. It was contended that the notice issued under Section 184 is, therefore, without jurisdiction.

4. On a perusal of the licence and development plan of the

structure in question, it is clear that the area over which the structure has been constructed, is an open terrace. What this signifies is that the terrace, even if it is sold to the Petitioner, is required to be kept open to sky, considering that it is not counted within the habitable space and within the FAR/coverage calculations, at the time of obtaining the construction licence. Whether the Petitioner has purchased this structure from the predecessor/owner or constructed it on his own, would be immaterial, since the structure has been constructed without requisite licence under Section 184 of the Municipalities Act. Even during the course of the hearing, the Petitioner was unable to produce any licence issued by the Chief Officer of the Municipality or by the Planning Authorities for erecting this structure.

5. Perusal of the Transgression report shows that the open terrace is 5.16 x 7.55 metres and is now covered not only by a roof consisting of GI sheets, but also by a false ceiling and vetrified flooring, and has been enclosed as an additional room to the living space of the flat purchased by the Petitioner. This is totally impermissible not only by the bye-laws of the Municipality but by all the planning laws. The impugned order passed by the Chief Officer is, therefore, well within the jurisdiction conferred upon it under Section 184 of the Municipalities Act.

6. Perusing the order of the Administrative Tribunal, the same

appears to have considered the entire record, and the findings as to the illegalities committed by the Petitioner, are borne from the Transgression Report and from the order of the Chief Officer. The order of the Tribunal cannot be termed as perverse or in any manner contrary to the provision of Section 184 of the Act.

7. There is no case made out for interference in the supervisory jurisdiction of this Court as there is no infirmity in any of the orders of the authorities above.

8. The petition is, therefore, dismissed.

9. The Chief Officer of the Margao Municipal Council shall proceed to carry out the demolition of the structure covered by the Transgression Report dated 30.07.2020, preferably within a period of one month from today. The Registry of this Court shall communicate this order to the Chief Officer of Margao Municipal Council for necessary action. A compliance report shall be placed by the Chief Officer on the record of its file. The matter may thus be placed on the regular board to record compliance.

VALMIKI MENEZES, J.