



Niti

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.709 OF 2024

Agostinho Filipe D'Costa
& 4 Ors.

...Petitioners

Versus

The Deputy Collector & SDO
& 5 Ors.

...Respondents

Mr Charles Elton with Mr Dhruv Dhawan, Advocates for the
Petitioners.

Mr Shivdutt P. Munj, Additional Government Advocate for
Respondent Nos.1 to 4.

Mr Vallabh D. Pangam, Advocate for Respondent No.5.

Mr Byron Rodrigues, Advocate for Respondent No.6.

**CORAM : BHARATI DANGRE &
NIVEDITA P. MEHTA, JJ.**

DATE : 3rd APRIL 2025

ORAL ORDER: (*Per Bharati Dangre, J.*)

1. The challenge is raised to the Technical Clearance Order dated 13.03.2024 issued by the Town and Country Planning Department, Ponda Goa. The said order grant clearance for carrying out the proposed construction of compound wall as per the enclosed approved plans in the property zones as settlement zone as per the Regional Plan for Goa and situated in Survey No.870/8 of Village Shiroda, Ponda

Taluka. The Technical Clearance Order has enforced several conditions, the prominent amongst them being to the following effect:

“3. The compound wall shall be constructed after leaving the road widening area shown in the plan.

6. The construction of compound wall shall not amount to blocking of any natural water course/drain and adequate number of opening in the compound wall shall be made for smooth flow of water.

8. In case of compound walls, the Gates shall open inwards only and traditional access, if any passing through the property shall not be blocked.”

2. The petitioners, who are objecting to the grant of the technical clearance in the Writ Petition, have also raised a doubt about the title of respondent no.6 and, therefore, claimed a relief of a declaration that the Deed of Gift dated 25.09.2017 registered before the Sub-Registrar by respondent no.6 is a fraudulent and void ab initio document and he has no right, title or interest over the public well, public road or any other area outside 673 sq. mtrs. of land possessed.

3. However, by seeking an amendment, the prayer clauses are deleted.

4. The concern of the petitioners is to the effect that the Map Plan which is accompanied with the Technical Clearance Order has reflected a broken pathway in Survey No.870/8 under the caption ‘pathway to be shifted’ and since it is a claim of the petitioners that it

is only through this way the petitioners could avail access to their respective residential premises, which are situated on the north side of the plot i.e. Survey No.870/8, they will have no way of access.

5. According to us, the assumption of the petitioners is completely incorrect as the Technical Clearance Order categorically records that when the compound wall is constructed, it will have gates which shall open inwards and the traditional access if any passing through the property in no case shall be blocked.

6. In our opinion, the aforesaid condition in the Technical Clearance Order takes care of the grievance of the petitioners and if there is any breach of this particular clause by respondent no.6, they are at liberty to take appropriate steps.

7. The petition stands disposed of.

NIVEDITA P. MEHTA, J. BHARATI DANGRE, J.