



Sonam

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 268 OF 2025**

Smt. Govini Gaonkar,
Daughter of Gokuldas,
Aged 38 years,
Resident of House No. 626/D-2,
Karashirmoll Agonda,
Canacona, Goa.

... Petitioner***Versus***

1. Smt. Medini Bhican Pagi
Alias Sweta Chandru Pagi,
Resident of Karashirmoll,
Agonda, Canacona, Goa.

2. Comunidade of Agonda,
Through its President,
Canacona, Agonda.

Amendment
carried out as
per order dated
06.04.2023

3. Administrator of Comunidade,
First floor,
Old Comunidade building,
Near Margao, Garden,
Salcete, Goa.

Amendment
carried out as
per order dated
05.09.2024

...Respondents

WITH
CIVIL APPLICATION NO. 40 OF 2025

Smt. Govini Gaonkar,
Daughter of Gokuldas,
Aged 38 years,
Resident of House No. 626/D-2,
Karashirmoll Agonda,

Canacona, Goa.

... Applicant

Versus

1. Smt. Medini Bhican Pagi
Alias Sweta Chandru Pagi,
Resident of Karashirmoll,
Agonda, Canacona, Goa.

2. Comunidade of Agonda,
Through its President,
Canacona, Agonda.

... Respondents

Mr. Byron Rodrigues (through V.C.), Advocate for the Petitioner.

Mr. Preetam Talaulikar, Advocate for Respondent No.1.

Mr. Shivdatt Munj, Additional Government Advocate for Respondent No. 3

CORAM

: VALMIKI MENEZES, J.

DATED

: 11TH JULY, 2025.

ORAL ORDER:

1. Registry to waive objections and register the matter.
2. This petition challenges an order of the Administrator of the Comunidade of South Zone dated 01.11.2021, passed in terms of Article 371(2) of the Code of Comunidade. The Show Cause Notice came to be issued on 28.12.2020 to the Petitioner, alleging that she had encroached in the land

surveyed under Survey No. 39/101 of the village Agonda by constructing illegal construction thereon. It is not in dispute that the said land belongs to the Comunidade of Canacona and is covered under the provisions of the Code.

3. Reply came to be filed to the Show Cause Notice of the Mamlatdar on 07.01.2021, by the mother of the Petitioner opposing the show cause notice. In reply, she has stated that, the reply is filed on behalf of the Petitioner as the Petitioner, at the relevant time was out of Goa. In the reply, the defence taken is that the structure was constructed with the consent of the Comunidade and originally there was a hut, and later on it was reconstructed by erecting a structure which is subject matter of the petition. In the reply, there is no license produced, though the House Tax receipt is produced in this petition to justify the legality of the structure. The only other document produced along with the petition is an affidavit dated 09.03.2019 of the Attorney of the Comunidade, wherein it is recorded by the Attorney of the Comunidade that he has no objection that the house structure of the Petitioner be repaired, and that the Petitioner is permitted to take Water and Electricity connection.

4. The affidavit is dated 09.03.2019, more than a year prior to the issuance of the notice. From this affidavit it appears that the Attorney had given no objection in his personal capacity on

behalf of the Comunidade to enable the Petitioner to take Electricity and Water connection for the house which is the subject matter of this petition; the affidavit also seems to have given the Petitioner, an NOC for repairing the house.

5. Article 373 of the Code mandates that the Attorney of the Comunidade shall denounce any encroachments on the land of the Comunidade. The affidavit relied upon is not only contrary to this provision, but appears to be in dereliction of duties cast upon the Attorney under Article 373, by swearing such an affidavit, that too on his personal capacity.

6. Merely because the structure is charged to the House Tax, it cannot be considered a legal structure. There is no statement made anywhere in the petition or in the reply to the Show Cause notice that the structure was erected with a license or that it existed for a long period of time prior to the survey being conducted. It is also not in dispute that the structure is not shown on the Government Survey Plan of the land under Survey No. 39/101 of the village Agonda, which was promulgated in the 1980's.

7. The other contention raised in the petition is that the impugned order was passed without affording the Petitioner an opportunity of being heard. Perusal of the Roznama of the proceedings would reveal that after the reply was filed on

behalf of the Petitioner on 07.01.2021, the matter was heard; however, no orders were passed by the Authority somewhere prior to 03.09.2021. The proceeding sheet entry of 04.10.2021, records this position and gives the parties a fresh opportunity for re-hearing on 28.10.2021 and thereafter on 01.11.2021, the matter was heard and the impugned order was passed. On 28.10.2021 and 01.11.2021, neither the Petitioner remained present, nor she remained present for any hearing prior to these dates after filing of the reply. This is not the case where notice was not served on the Petitioner. The only case put up by the Petitioner that the notice was served on her mother and since the Petitioner was out of Goa at the relevant time, the mother of the Petitioner filed the reply on behalf of the Petitioner, though not authorized to do so. The submission that the order is passed without following principles of natural justice is therefore rejected.

8. The Respondent has produced on record an Inspection Report dated 29.01.2021, placed before the Authority by the Escrivao of the concerned Comunidade. The inspection report was filed immediately after the reply is filed by the mother of the Petitioner. This report reveals that the house of the Petitioner was an illegal structure consisting of RCC slab and covered an area of 400 sq. mtrs., without any permissions or approvals of any Authority. There is no material of

whatsoever nature that was placed on record to suggest that the house was constructed with necessary permissions, approvals and licenses from the Panchayat and Town and Country Planning.

9. Considering all these facts, no case is being made out for interference in the supervisory jurisdiction of this Court under Article 227 of the Constitution of India.

10. The Writ Petition stands dismissed. No costs.

11. Accordingly, CA No. 40/2025 also stands disposed of.

VALMIKI MENEZES, J.