



Niti

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.191 OF 2025

VASANT SUBRAY HARMALKAR AND ANR

... PETITIONERS

Versus

STATE OF GOA, THR. ITS CHIEF

SECRETARY ANT 4 ORS

... RESPONDENTS

Mr Omkar Mestri, Advocate for the Petitioners.

Mr Amogh Arlekar, Additional Government Advocate for
Respondent Nos.1,3 and 4.

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

DATED :- 6th May, 2025

ORAL ORDER : (Per Bharati Dangre, J.)

The present petition is filed by the petitioner in reference to the alleged illegal construction of house bearing no.1/180/A, Canca Wado, Cunchelim, Bardez-Goa. The pleadings in the petition categorically state that pursuant to the complaint being filed by the petitioner, respondent no.2 issued a show cause notice, pursuant to which a site inspection was carried out. Thereafter, even an order was passed by respondent no.2, directing demolition of the structure depicted in the show cause notice dated 26.05.2020 being erected by respondent no.5 and stopping the work.

2. Respondent No. 5 thereafter has preferred a Municipal Appeal

before the Appellate Tribunal and by order dated 30.06.2023, the Tribunal has quashed and set aside the impugned order and the matter is remanded back to respondent no.2 to decide the same afresh. The respondent no.2 also directed respondent no.5 to take appropriate steps before the competent Authority to regularize the offending structure by following the process of law and report compliance.

3. Admittedly, the petitioners have filed objections before respondent nos.3 and 4 pointing out the illegal conduct of respondent no.5.

4. It is in this background that the petition seeks quashing of the notice dated 15.07.2024, which is an application preferred by respondent no.5 for regularisation of the construction and by the said notice the respondent no.5 is asked to attend the office, along with the original documents with respect to the structure for conducting verification and recording the stay.

5. It is not in dispute that the proceedings are pending before the said Authority and the relief in the petition is to injunct the Authority from taking steps for regularisation of the structure, as it is the contention of the petitioners that an illegal structure cannot be regularised though an unauthorised structure can be. In any case, it is for the concerned Authority, i.e. the Deputy Collector, Mapusa to take the proceedings to a logical end and we hope and trust that the Authority is conscious of the power vested in it and also is conscious to find distinction between

an unauthorised structure and illegal structure. Since the petitioner intend to injunct the Authority from proceeding with the proposal for regularisation, we are not inclined to entertain the petition and deem it appropriate to dismiss the Writ Petition.

6. Needless to state that upon an appropriate order being passed, the petitioners are liberty to raise a challenge to the same.

NIVEDITA P. MEHTA, J.

BHARATI DANGRE, J.