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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.732 AND 733 OF 2023

WRIT PETITION NO.732 OF 2023

Comunidade of Serula,
a body constituted in terms of the
Code of Comunidades, 1961,
having its Office at West Coast
Residency, 1st Floor, Opposite Bank
of India, Porvorim Bardez Goa,
represented herein
through its attorney,
Mr. Peter Martins,
55 years of age, service,
r/o H. no. 888/1, Alto Porvorim,
Socorro, Bardez Goa, 403101.

... Petitioner

Versus

1. State of Goa
Through Chief Secretary
Porvorim, Bardez Goa.
2. Director of Panchayats,
Junta House, Panaji Goa.
3. The Village Panchayat of Socorro,
Through its Sarpanch/Secretary,
Socorro, Bardez, Goa.
4. The Town and Country Planning
Department, Mapusa,
Bardez, Goa.
5. Mr. Ravi Sonar,
Major of age,

r/o. E-104, Devashri Gardens,
Socoro, Porvorim,
Bardez, Goa.

6. Administrator of Comunidades,
North Zone, Mapusa,
Bardez-Goa. Respondents

**AND
WRIT PETITION NO.733 OF 2023**

Comunidade of Serula,
a body constituted in terms
of the Code of Comunidades,
1961, having its Office at West
Coast Residency, 1st Floor,
Opposite Bank of India,
Porvorim Bardez Goa,
represented herein
through its attorney,
Mr. Peter Martins,
55 years of age, service,
r/o H. no. 888/1,
Alto Porvorim, Socorro,
Bardez Goa, 403101.

.... Petitioner

Versus

1. State of Goa
Through Chief Secretary
Porvorim, Bardez Goa.

2. Director of Panchayats,
Junta House, Panaji Goa.

3. The Village Panchayat of Socorro,
Through its Sarpanch/Secretary,
Socorro, Bardez, Goa.

4. The Town and Country Planning

Department, Mapusa,
Bardez, Goa.

5. Mrs. Puja Ravi Sonar alias
Pooja Ravi Sonar,
Major of age,
r/o. E-104, Devashri Gardens,
Socorro, Porvorim,
Bardez, Goa.

6. Administrator of Communidades,
North Zone, Mapusa,
Bardez-Goa.

... Respondents

Mr Anthony Joe D'Silva with Ms K. Gracias, Advocates for the Petitioner.

Mr D. Pangam, Advocate General with Mr S. Samant, Additional Government Advocate for Respondent Nos.1,2,4 and 6 in WP No.732/2023 and Mr S. Priolkar, Additional Government Advocate for Respondent Nos.1,2,4 and 6 in WP No.733/2023.

Mr Amey Kakodkar, Advocate for Respondent No.3.

Mr J.E. Coelho Pereira, Senior Advocate with Mr S. Rivankar, Advocate for Respondent No.5.

**CORAM: M. S. SONAK &
VALMIKI SA MENEZES, JJ.**

DATE: 23rd JANUARY 2024

ORAL JUDGMENT : (*Per M.S. Sonak, J.*)

1. Heard Mr Silva, who appears with Ms K. Gracias for the petitioner. Learned Advocate General appears along with Mr S. Priolkar and Mr S. Samant, learned Additional Government Advocates for respondent nos.1,2,4 and 6, Mr Kakodkar appears for the Panchayat –

respondent no.3, Mr J.E. Coelho Pereira, learned Senior Advocate, appears along with Mr S. Rivankar for respondent no.5.

2. Learned Counsel for the parties agree that the common judgment and order can dispose of both these petitions since issues raised in both the petitions are common.

3. Rule in both these petitions. The rule is made returnable immediately at the request of and with the consent of the learned Counsel for the parties.

4. The petitioner is a Communidade governed by the Code of Communidades. It complains about inaction in the context of usurpation and construction of unauthorised structures on the Communidade property by respondent no.5 (in both petitions) in plots nos.17 and 18 surveyed under no.6/1 in Socorro Village, Bardez-Goa (said plots).

5. Based on the petitioner's complaints, the Panchayat has already issued a demolition order dated 04.06.2018. However, the fifth respondent has instituted appeal no. ADP-I/BAR/P.A.No.150/2018 and ADP-I/BAR/P.A.No.151/2018 before the Additional Director of Panchayats and has secured an interim relief.

6. From the record, we find that this appeal was instituted for impleading the Communidade, which is the owner of the suit plots, as a party. Further, we find that the Communidade was the complainant based upon whose complaint the Panchayat issued the demolition order.

Further, we are quite shocked that this appeal has been pending for the last five years before the Additional Director of Panchayats.

7. Mr Pereira, learned Senior Counsel for the fifth respondent in both the petitions, now states that the fifth respondent will immediately implead the Communidade as a respondent in the appeal. The Additional Director of Panchayats must permit such impleadment and dispose of the above appeal no. ADP-I/BAR/P.A.No.150/2018 and ADP-I/BAR/P.A.No.151/2018 as expeditiously as possible and, in any case, within three months from the petitioner filing the authenticated copy of this order before the Additional Director of Panchayats. If there is a connected appeal filed by Respondent No.5 in the connected petition, that, too, must be similarly disposed of.

8. Apart from the action under the Panchayat Raj Act, we are surprised that the Administrator of Communidades has not taken any action on the petitioner's complaints of usurpation of Communidade property by encroaching into the same. Mr Pereira, however, states that the Communidade has allotted the property to the fifth respondent, for which the fifth respondent has also made payments to the Communidade.

9. The petitioner has placed on record a communication dated 20.09.2016 addressed by the Administrator of Communidades to the Sarpanch, Village Panchayat of Socorro, which reads as follows:

“No. ACNZ/SER-35/2016-17/693
Administration Office of the
Comunidade of North Zone,
Mapusa, Bardez-Goa.
Dated: -20/09/2016.

To,
The Sarpanch,
Village Panchayat Socorro,
Socorro, Bardez - Goa.

Sub:- Construction of Residential Building in Sy.No.6/1,
plot No.17, at Socorro Bardez-Goa.
ef: Letter No. VP/SOC/303/2016-2017, dated 4/08/2016.

Madam,

With reference to the above referred letter and on the subject cited above, this is to inform you that after verifying the records, this office has neither found any records nor a file processed in the name of Shri. Ravi Subash Sonar in this office in respect to plot No.17, under Survey No.6/1 of Socorro village and land belonging to the Comunidade of Serula.

This is for your information.

Yours faithfully,
sd/-
(Clen Madeira)

Administrator of Comunidades, North Zone.

Encl:-As above.

Copy to:-

Shri Ravi Subash Sonar,
R/O. E-104, Devashri Garden,
Porvorim, Bardez-Goa.... for information.”

10. The Administrator of Comunidades has also addressed yet another communication dated 24.10.2016 to the Senior Town Planner, Town and Country Planning Department, Mapusa Bardez Goa, which reads as follows:

“No.ACNZ/SER-35/2016-17/765
Office of the Administrator of
Comunidades of North Zone.
Mapusa, Bardez-Goa.
Dated: 24-10-2016.

To,
The Senior Town Planner,
Town & Country Planning Department,
Mapusa, Bardez-Goa.

Sub:- Complaint against illegal allotment of the plot No.17
& 18 in Survey No.6/1, Village Socorro,
Comunidade de Serula.

Sir,

This office is in receipt of the Complaint from Shri Minguel Vaz, Vaddem, Socorro, Porvorim, Bardez-Goa, dated 14/09/2016, on the subject cited above and copy endorsed to you wherein you have issued a N.O.C. vide letter No. TPB/2471/SOC/TCP/16/1997, dated 05/07/2016 to Mr. Ravi S. Sonar and Mrs. Pooja R. Sonar in Survey No.6/1 of Village Socorro.

The said plots have not been allotted by the Government to Mr. Ravi S. Sonar and Mrs. Pooja R. Sonar, as no such file was processed by this office.

You are therefore requested to revoke the N.O.C. issued by your office under intimation to this office.

Yours faithfully,
sd/-

(Clen Madeira)

Administrator of Comunidades, North Zone.

Encl:-As above.

1. The Sarpanch,
Village Panchayat of Socorro,
Socorro, Porvorim, Bardez-Goa.... for information and
necessary action.
2. Shri Minguel Vaz,
R/O. Vaddem, Socorro,
Porvorim, Bardez-Goa.”

11. From the above two communications, the Administrator has asserted that the said plots have not been allotted to Mr Ravi Sonar and Mrs Pooja Ravi Sonar (Respondent no.5 in each of these petitions).

12. In the above circumstances, the Administrator was expected to take action under Section 6 of the Goa Land (Prohibition on Construction) Act, 1995. Since Mr Pereira has submitted that

respondent no.5 has an allotment from the Communidade, we direct the Authority under the 1995 Act to comply with principles of natural justice and fair play before any action is taken. This is notwithstanding the fact that the 1995 Act, as it presently stands, may not have made any specific provisions for such compliance with natural justice.

13. The learned Advocate General submitted that the Administrator of Communidades has been specified as the authority for taking action against encroachment on Communidade properties under the above Act.

14. The Administrator, after addressing the aforesaid two communications dated 20.09.2016 and 24.10.2016, should have initiated action to remove the encroachment. However, for all these years, no such action has been taken by the Administrator. Therefore, we are constrained to issue these directions.

15. The Administrator must commence the action within four weeks from today and conclude such action within three months from the service of notice upon Mr Ravi Sonar and Mrs Pooja Ravi Sonar.

16. From the petition, we find that the Deputy Town Planner had issued the show cause notice dated 28.12.2016 to respondent no.5. However, the same has, to date, not been disposed of. Accordingly, the Deputy Town Planner should dispose of this show cause notice within three months, particularly because the show cause notice refers to these plots not being allotted to the fifth respondent. The Deputy Town

Planner must apply his mind to these aspects and dispose of the show cause notice within three months after complying with the principles of natural justice. In the peculiar facts of this case, the Deputy Town Planner must hear not only the fifth respondent but also the petitioner herein and communicate his orders within three months from today.

17. These petitions are disposed of in the above terms without any order for costs.

18. All concerned to act on an authenticated copy of this order.

VALMIKI SA MENEZES, J.

M. S. SONAK, J.

NITI K
HALDANKAR

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NITI K HALDANKAR
Date: 2024.01.24
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