

IN THE HIGH COURT OF BOMBAY AT GOA

STAMP NUMBER MAIN No.1678 OF 2020

1. Mr. Eduardo Camilo Da Cruz
alias Edward D'Cruz
Aged about 54 years
son of late Mr. Camilo D'Cruz
Indian National, Businessman,
and his wife
2. Mrs. Rita Cassia Lobo e Da Cruz
both being residents H.No.C-9/189,
Opposite Divan Ganesha Bldg.,
near Chowgule House,
Patrong, Baina, Goa.

... Petitioners

Versus

1. The Chief Officer,
Mormugao Municipal Council,
Vasco da Gama, Goa.
2. The Mormugao Planning
and Development Authority,
through its Member Secretary,
Vasco da Gama, Goa
3. Mr. Santosh Vasudev Khorjuvekar,
son of Mr. Vasudev Vishnua Khorjuvekar,
Indian National, major in age,
resident of 3rd Floor,
Nandadeep Apartment,
Baina, Vasco da Gama,
Goa-403 802

4. Mrs. Sanita Vasudev Khorjuvekar,
wife of late Mr. Vasudev Khorjuvekar,
Indian National, major in age,
resident of 3rd Floor,
Nandadeep Apartment,
Baina, Vasco da Gama,
Goa-403 802

... Respondents

Mr. Bhargav Khandeparkar, Advocate for the Petitioners.

Mr. Menino Pereira, Advocate for the Respondent No.2.

Mr. Athnain Naik, Advocate for the Respondent No. 3.

Mr. P. Bandodkar, Advocate for the Respondent No.4.

Coram:- M. S. SONAK, &
M. S. JAWALKAR, JJ.

Date:- 04th January, 2021

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

Heard Mr. Bhargav Khandeparkar, learned Counsel for the petitioners, Mr. Menino Pereira, learned Counsel for the respondent No.2, Mr. Athnain Naik, learned Counsel for the respondent No. 3 and Mr. P. Bandodkar, learned Counsel for the Respondent No.4.

2. Rule. With the consent of and at the request of the learned Counsel for the parties, the Rule is made returnable forthwith.

3. The complaint of the petitioners is that despite the Show Cause Notice and Stop Work Order dated 24.09.2020 issued by the respondent No.2, the respondents No. 3 and 4 proceeded with the impugned construction, taking advantage of certain intervening holidays.

4. Mr. Naik, the learned Counsel appearing for respondent No.3 and Mr. Bandodkar, learned Counsel appearing for the respondent No.4 dispute all the allegations made in the petition. They state that after the receipt of the Stop Work Order, no construction has taken place. In any case, they assure this Court that no construction will take place, as long as the Stop Work Order is in operation. They however request that directions be issued to the respondent No.2 to dispose of the Show Cause Notice dated 24.09.2020 expeditiously because, according to them, the allegations made by the petitioners are incorrect and further, the petitioners themselves, have put up illegal construction.

5. Mr. Pereira, learned Counsel for respondent No.2 states that on 31st December, 2020, the officials from respondent No.2 actually visited the site and during the course of site inspection did not find any construction work in progress. He states that even photographs have been taken and said photographs are available with the respondent No.2 so as to clarify the stage of construction as on 31.12.2020.

6. As informed on behalf of respondents No.3 and 4, we direct that the respondent No.3 and 4 will not proceed with the construction or alter the status quo as on 31.12.2020, until the Show Cause Notice dated 24.09.2020 is disposed off by the respondent No.2 on its own merits and in accordance with law.

7. Mr. Pereira, the learned Counsel for the respondent No.2 states that the respondent No.2 will dispose off the Show Cause Notice within a period of 4 weeks from today.

8. In the peculiar facts and circumstances of the present case, we direct that the authorities grant a personal hearing to both, the petitioners as well as the respondents No.3 and 4 before the Show Cause Notice is disposed off. However, we make it clear that the petitioners and the respondents No.3 and 4 will have to attend the hearing on the date fixed by the respondent No.2 without seeking any adjournment for any reason. In any case, the petitioners and the respondents No.3 and 4 are granted leave to file their written submissions, in addition to their complaints as well as the replies. However, all this should be completed within a period of maximum 10 days from today without seeking any further extension from respondent No.2.

9. The respondent No. 2 to dispose off the Show Cause Notice dated 24.09.2020 on its own merits and in accordance with

law as expeditiously as possible and, in any case, within 4 weeks from today as proposed by Mr. Pereira, the learned Counsel for the respondent No.2. We make it clear that we have not adjudicated the rival contentions and, therefore, it will be for the respondent No.2 to dispose of the Show Cause Notice on its own merits and in accordance with law.

10. The Rule in this matter is made absolute in the aforesaid terms.

11. There shall be no order as to costs.

12. All concerned to act based on the authenticated copy of this Order.

M. S. JAWALKAR, J

M. S. SONAK, J

msr.