

LD-VC-CW-192-2020
IN THE HIGH COURT OF BOMBAY AT GOA

LD-VC-CW-192-2020

Manuel Vitcor Dias Petitioner

V e r s u s

Village Panchayat Majorda & others. Respondents.

Adv. Gaurish N. Agni with Adv. Mr. Tanmai Gawas for the Petitioner.

Adv. C. A. Coutinho for the Respondents.

CORAM: DAMA SESHADRI NAIDU, J.
DATE: 8th December 2020.

ORDER:

One person complains against another person of illegal construction. The matter runs through the administrative and judicial echelons. All along, the alleged illegal construction goes on unabated. Eventually, comes an order for demolition. But nothing happens. Then follows a contempt petition, which the Division Bench closes on the assurance of the Gram Panchayat that action will be taken. Then, Gram Panchayat does a technical compliance. The developments in these judicial proceedings are disturbing.

2. The learned counsel for the Gram Panchayat agrees to provide the names and other details of the members of the Panchayat that passed the resolution, withdrawing the show cause notice.

3. Indeed, the Panchayat has assured the Division Bench of this Court in Contempt Proceedings that it would decide the show cause notice on its merits. By no stretch can we say the withdrawal of the very show cause

notice, in the face of fragrant violation of the law by the private respondents in constructing the building without permission, amounts to the Panchayat's deciding the show cause notice on the merits.

4. The Registry suo moto will also bring on record the Secretary of the Gram Panchayat or any other officer that issued the impugned order.

5. Once the learned counsel for the Gram Panchayat provides the details, the registry will array them as parties to the proceedings and issue notice. Based on their reply, the Court will ascertain to what extent the Panchayat has violated the law and, if necessary, take remedial and correctional steps.

6. I request Mr. R. G. Ramani, the learned Senior Counsel, to be the amicus in the matter. The Registry will communicate to the learned Senior Counsel to ascertain his willingness and to obtain his consent.

7. Post the matter on 6/1/2021.

8. In the meanwhile, the contesting respondents shall not carry on any with any construction of whatsoever nature.

9. Shri C. Padgaonkar, the learned counsel, is appointed as the Commissioner to visit the property, inspect it physically, and file a report with photographs—as to the stage of construction. Before he executes the warrant commission, he will put the parties on notice. The Commissioner's fee for executing the Court's warrant is fixed at Rs.10, 000/- (Rupees ten thousand only).

10. I am conscious that the matter is pending before the Civil Court. But this Court has been shocked at the way the Gram Panchayat, perhaps with impunity, has acted in the matter. Therefore, this Court has decided to exercise its extraordinary powers vis-à-vis a public functionary's conduct, rather than decide the private dispute between the parties.

11. Under these circumstances, the pendency of the suit before the Trial Court cannot be a hindrance. The learned Advocate Commissioner will execute the warrant during the vacation and file the report on the Court's reopening.

As the physical inspection concerns the whole building, the parties are at liberty to file work memos before the Advocate Commissioner, if they so desire.

DAMA SESHADRI NAIDU, J.

AP/-